

INDEX

SECTION	SUBJECT	PAGE
<i><u>Ordinance Construction</u></i>		
151.001	Title	1
151.002	Defined Words & Construction	1
151.003	Authority	2
151.004	Jurisdiction	2
151.005	Purpose	2
151.006	Severability	3
151.007	Interpretation	3
151.008	Application	3
151.009	Saving Provision	4
151.010	Repealer	4
151.011	Transition Rules	4
<i><u>Definitions</u></i>		
151.100	Definitions	7
<i><u>Districts and Boundaries</u></i>		
151.200	Establishment of Districts	38
151.201	Zoning Map	38
151.202	District Boundary Interpretation	38
151.203	Procedures for Annexed or Vacated Areas	39
151.204	Unidentified Property	39
<i><u>Effects of Districting and General Regulations</u></i>		
151.300	District, More Restricted or Less Restricted	41
151.301	Conformance Requirements	41
151.302	Additional Uses, Board Determination	41
151.303	Additional Prohibited Uses, Board Determination	41
151.304	Yard Requirements Along Boundary Line	42
151.305	Street Frontage Requirements	42
151.306	Required Area	42
151.307	Off Street Parking and Loading	42
151.308	Encroaching Doors	42
151.309	Essential Services	43
151.310	Unsafe Buildings	43
151.311	Pending Applications for Building Permits	43

151.312	Extraction of Minerals and Oil Drilling	43
	<i><u>Non-conforming Uses</u></i>	
151.320	Non-Conforming Uses	44
151.321	Minimum Living Area of a Residence	45
	<i><u>District Regulations</u></i>	
151.400	A-1 Agricultural District	46
151.410	R-1 One-Family Residence District	50
151.420	R-2 Multi-Family Residence District	53
151.430	Rear Dwellings in R-Districts	56
151.431	Accessory Uses in R-Districts	56
151.432	Side Yards in R-Districts	57
151.433	Traffic Visibility Across Corner Lots, R-Districts	57
151.440	C-1 Neighborhood Business District	58
151.450	C-2 Community Business District	62
151.460	C-3 General Business District	68
151.470	M-1 Light Industrial District	73
151.480	M-2 General Industrial District	78
151.490	AZ Airport Zoning Overlay District w/Appendix	84
	<i><u>Special Provision of this Ordinance</u></i>	
151.510	Performance Standards, General Requirements	91
	<i><u>Parking</u></i>	
151.520	Off-Street & Off-Site Loading & Parking Regulations w/Table 1	91
	<i><u>Mobile Homes, Manufactured & Mobile Home Park</u></i>	
151.530	Mobile Homes, Manufactured & Mobile Home Park	98

	<u><i>Signs</i></u>	
151.540	Signs	102
	<u><i>Subdivision Control</i></u>	
151.550	Subdivision Control Regulations	107
151.551	Compliance	107
151.552	Other Department or Agency Requirements	108
151.553	Territorial Limits of Regulations	108
151.554	Technical Review Committee	108
151.555	Minimum Standards, Checklist Requirements	109
151.560	Authority over Plats & Replats	110
151.561	Standards for Approval	110
151.562	Replat	111
151.570	Procedure for Application	112
151.576	Hearing	116
151.577	Rules	116
151.580	Plat Committee	116
151.590	Primary Approval by Plat Committee	117
151.591	Primary Approval by Plan Commission	118
151.592	Appeals	119
151.593	Secondary Approval	119
151.594	Secondary Approval Procedure	122
151.600	Financial Responsibility/Bonds	123
151.610	Subdivision Principles of Design	126
151.620	Minimum Standards of Improvements	131
151.640	Incorporated Area Specific Requirements	135
151.660	Unincorporated Area Specific Requirements	145
151.670	Off-Street Improvements	148

151.680	Minimum Street Construction Standards	149
151.700	Modifications of Subdivisions	156
151.710	Subdivision Variances	156
151.712	Conditions to Variance	156
151.713	Notation of Variance	157
151.714	Variance after Platting	157
151.720	Temporary Permit for Model Home	157
	<i><u>Unit Development Projects</u></i>	
151.730	Unit Development Projects	158
	<i><u>Swimming Pools</u></i>	
151.760	Swimming Pools	166
	<i><u>Sexually Oriented Businesses</u></i>	
151.770	Sexually Oriented Businesses	167
	<i><u>Special Exceptions</u></i>	
151.780	Special Exceptions, Determined by BZA	172
151.781	Filing Procedure	172
151.782	Conformance Requirements	172
151.782(G-Y)	Conformance Requirements for Wind Energy Conversion Systems	173
151.782(A & B)	Conformance Requirements for Ethanol Production	175
151.785	Extraction of Minerals	178
	<i><u>Use Index</u></i>	
151.790	District Use Index	181
151.800	Immaterial Modifications for Prior Existing Non-Conformity	209
	<i><u>Variances and Modifications for Lots of Record</u></i>	
151.810	Variances and Modifications, Lots of Record	211
151.811	Height Modification	211
151.812	Minimum Requirements	212

151.813	Yard Modifications	212
151.820	Projection of Architectural Features	213
151.821	Fences, Walks & Hedges	214
151.822	Yard Requirements along Boundary Lines in the Less Restricted District	214
	<i><u>Zoning Administration and Enforcement</u></i>	
151.830	Zoning Administration, Enforcement	216
151.831	Application Requirements	216
151.832	Improvement Location Permit Required	216
151.833	Certificate of Occupancy	217
151.834	Fees	218
151.835	Violations, Penalties	218
151.836	Violations, Injunctive Relief	218
	<i><u>Board of Zoning Appeals</u></i>	
151.900	Board of Zoning Appeals	220
151.907	BZA Requirements for a Confined Feeding Operation Variance	224
151.908	Board of Zoning Appeals Hearing	225
151.909	Stay of Work Pending Decision on Appeal	226
151.910	Review by Certiorari	226
	<i><u>Amendment Procedure</u></i>	
151.920	Town Council May Amend Ordinance	227
151.921	Procedure for Change	227
151.922	Fees	230
151.923	Validity	230
151.924	Adoption	230

- (8) The word “includes” does not limit a term to the specified examples, but is intended to extend the term’s meaning to all other instances or circumstances of like kind or character.
- (9) The word “county” means Wayne County, Indiana. The word “state” means the State of Indiana. The word “town” means the Town of Hagerstown

§151.003 AUTHORITY

The Hagerstown Zoning and Subdivision Control Ordinance is adopted by the Hagerstown Town Council, Wayne County, Indiana pursuant to its authority under the laws of the State of Indiana, 36-7-4 et seq. Whenever codes cited in this Ordinance refer to Indiana Code which has been amended or superseded, this Ordinance shall be deemed amended in reference to the new or revised code.

§151.004 JURISDICTION

This Ordinance shall apply to all land within the jurisdiction of the Hagerstown Advisory Plan Commission.

This Ordinance, which was enacted pursuant to Indiana home rule and planning enabling legislation (Indiana Code, titles Section 36-1-3-4 and the Section 36-7-4-700 series, as amended), authorizes the Hagerstown Advisory Plan Commission to review and approve or disapprove plats for subdivisions within the jurisdiction defined above.

§151.005 PURPOSE

The purposes of the Zoning and Subdivision Regulations are to protect and promote public health, safety, and general welfare, and to:

- (A) Provide guidance for future growth and development in accordance with the Hagerstown Comprehensive Plan and applicable ordinances;
- (B) Provide protection for the character and the social and the economic stability of all parts of the Hagerstown Advisory Plan Commission’s jurisdiction;
- (C) Encourage the orderly and beneficial development of the Hagerstown Advisory Plan Commission;
- (D) Provide protection and conservation of the value of land, structures, and other improvements to the land;
- (E) Discourage conflicts between the uses of land and structures;
- (F) Avoid scattered, illogical, and uncontrolled subdivisions of land that would result in the imposition of an excessive expenditure of public funds for the distribution or supply of infrastructure and/or services;

- (G) Establish reasonable standards and procedures for subdivisions and subdivision re-plats, in order to further the orderly layout and use of land;
- (H) Ensure proper legal descriptions, legal recording , and monument marking of subdivided land;
- (I) Prevent the pollution of air, water, and soil;
- (J) Ensure the provisions of drainage facilities, the safeguarding of the water table, and the protection from flooding or the causing of increased risk of flooding;
- (K) Encourage the protection of natural resources in order to preserve the integrity, stability, natural beauty, topography, and the value of land;
- (L) Plan for balance between land uses, natural resources, open spaces, recreation, and public ways that is beneficial to the community as a whole, both currently and in the future.
- (M) Cause the cost of design and installation of improvements in new, platted subdivisions to be borne by the developer and persons purchasing the lots, and to avoid any direct or indirect burden placed upon adjacent property owners or the governments of Wayne County and the Town of Hagerstown as a whole; and
- (N) To cause the petitioner to bear all costs associated with the approval process, development process, and inspection process.

§151.006 SEVERABILITY

If any provision or the application of any provision of this Ordinance is held unconstitutional or invalid by the courts, the remainder of the Ordinance or application of such provision to other circumstances shall not be affected.

§151.007 INTERPRETATION

The provisions of this Ordinance shall be the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large. The provisions are also designed to establish and maintain reasonable community standards for the physical environment. If 2 or more provisions within this Ordinance are in conflict or are inconsistent with one another, then the provision, which is most restrictive, shall control.

§151.008 APPLICATION

When this Ordinance along with private covenants, private contracts, commitments, permits, agreements, state laws, federal laws, or other regulations regulates a structure or parcel of land, the greater restriction shall control.

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§151.100 DEFINITIONS FOR THE ZONING AND SUBDIVISION CONTROL ORDINANCE

Definitions for the Airport Zoning Overlay District and for Sexual Oriented Businesses are found within those respective Sections. See Sections 151.494 and 151.770.

“ABANDONMENT” An intent to abandon or to relinquish by some overt act, or some failure to act which carries the implication that the owner neither claims or retains any interest in the subject matter of the abandonment.

“ACCESSORY BUILDING, STRUCTURE OR USE” A building, structure, or use subordinate to the principal use of a building, structure or principal use of land, located on the same lot as such principal use and serving a purpose customarily incidental to the use of the principal building, structure or land use.

“ACREAGE” Any tract or parcel of land which has not been subdivided and platted.

“AGRICULTURE” The use of five (5) or more acres of land for agriculture purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, aquaculture, and animal or poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce raised on the premises, provided however, that the operation of such accessory uses shall be secondary to the normal agriculture activities. The term “agriculture” shall not include stockyards, slaughterhouses and confined feeding operations.

“AIR POLLUTION” Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to property, or which unreasonably interfere with the comfortable enjoyment of life and property.

“AIRPORT” Any runway, landing area or other facility designed, used either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tie-down areas, hangers and other necessary buildings and open spaces.

“ALLEY” A public or private way not more than twenty (20) feet wide, at the rear or side of property, affording only a secondary means of access to abutting property.

“ALTERATIONS” As applied to a building or structure, a change or rearrangement in the structural parts or in exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

“AMENDMENT” A change of the zoning regulations, district boundaries, or classification of property as shown on the Zoning Map. The authority for any amendment lies solely with the Town Council.

“ANIMAL HUSBANDRY” The keeping, grazing, feeding and care of animals other than household pets.

“ANIMAL UNIT” A method of determining the number of animals permitted on a lot or combination of lots and that are less than five (5) acres in total area, when the lot(s) are used for animal husbandry. Generally, an animal unit is equal to 1,000 pounds of live weight of any given livestock species or any combination of livestock species permitted per acre. Absent of specific data when determining animal units, the following measurement shall be used.

<u>Animal Type</u>	<u>Animal Unit</u>	<u>Number of Animals per Animal Unit</u>
Adult bull	1.25 AU	
Mature cow	1.00 AU	
Yearling steer or heifer	.75 AU	
Calf, up to 1 year	.50 AU	
Horse	1.25 AU	
Sheep		5.00 animals per AU
Finishing Pig up to 185 lbs.		5.40 animals per AU
Sow		3.60 animals per AU
Sow w/ litter		2.70 animals per AU
Boar		2.90 animals per AU
Poultry, layers & pullets		250.00 animals per AU
Turkey		50.00 animals per AU

“APARTMENT” A suite of rooms or a room in a multi-family building arranged, designed, and intended for a place of residence of a single family.

“AQUACULTURE” The propagation, cultivation, and marketing of aquatic plants and animals. Aquaculture shall not include retail sales of aquatic plants and animals, fee fishing, or aquaculture facilities that require a National Pollution Discharge Elimination Standard (NPDES) permit.

“AREA ” The total area within the property line.

“ATTIC” That space of a building which is immediately below and wholly or partially within the roof framing.

“AUTOMOBILE REPAIR, MAJOR (Motor Vehicle)” General repair, rebuilding or reconstruction of engines, motor vehicles, or trailers; collision services including body, fender, or frame straightening or repair; overall painting or paint shop, vehicle steam cleaning.

“AUTOMOBILE REPAIR, MINOR (Motor Vehicle)” Incidental repairs, replacement of parts, and motor service to motor vehicles, but not including any operation specified under “Automobile, Repair, Major” or any other similar thereto.

“AUTOMOTIVE SALES GARAGE – MOBILE HOME, TRAILER, RECREATION, VEHICLES AND FARM IMPLEMENT” A building on a lot designed and used primarily for the display, sale or rental of new or used motor vehicles, mobile homes, trailers, recreation vehicles, or farm implements, where mechanical repair and body work may be conducted as an accessory use incidental to the primary use.

“AUTOMOBILE SERVICE STATION (Motor Vehicle or Filling)” A building or place where gasoline or other motor fuel, lubricants, tires, batteries, accessories, and supplies for operating and equipping motor vehicles are sold at retail to the public and deliveries are made directly into motor vehicles, including incidental battery, brake, muffler, and tire service, washing and polishing.

“AUTOMOBILE WASH” A structure or building designed for cleaning, washing, waxing, simonizing, or similar treatment of automotive vehicles as its principal function.

“AUTOMOBILE WRECKING OR SALVAGE YARD (Motor Vehicle)” Any land, building, or structure where motor vehicles are disassembled, dismantled, junked, or wrecked, or where two or more motor vehicles not licensed or in operable condition or used parts of motor vehicles are stored.

“BASEMENT” A story whose floor is more than twelve (12) inches but not more than half of its story height below the average level of the adjoining grounds (as distinguished from a “cellar” which is more than one-half below such level).

“BLOCK” Property having frontage on one side of a street and lying between two nearest or intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way or waterway.

“BOARD” The Board of Zoning Appeals of Hagerstown, Wayne County, Indiana.

“BUILDING” Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, chattels, or property. When one divides such a structure into separate parts or more un-pierced walls extending from the ground up, each part is deemed a separate building.

“BUILDING AREA” The maximum horizontal projected area of a building or structure at or above grade, excluding cornices, eaves, gutters, unenclosed porches, terraces, balconies or steps.

“BUILDING COMMISSIONER” The Town’s designated official responsible for administering this Ordinance. The term “Building Commissioner”, Plan Administrator, Plan Director and Zoning Inspector have the same meaning within this Ordinance.

“BUILDING HEIGHT” The vertical distance measured from the average elevation of the proposed finished grade at the front wall of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

“BUILDING LINE” That line established by the minimum setback from the street right-of-way for buildings or structures for the distance involved. The building line shall be the point at which the lot width shall be measured.

“BUILDING, PRINCIPAL” A building in which is conducted the main or principal use of the lot on which said building is situated. Where a substantial part of the wall of a principal building is shared by an accessory building or where an accessory building is attached to the principal building in other substantial manner as by roof, such accessory building shall be counted as a part of the principal building.

“BUILDING SETBACK LINE.” A line on a plat between which line and the street of a lot or block, buildings may not be erected.

“BUSINESS (COMMERCIAL)” The engaging in the purchase, sale, barter, exchange of goods, wares, merchandise, or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

“BUSINESS, OFFICE” Office or agencies which conduct service establishment, without a stock of goods such as real estate, insurance, etc.

“CAMPING GROUNDS” A parcel of land used or intended to be used for temporary occupancy by campers, or for temporary occupancy by or of recreational vehicles, tents, cabins, or other temporary accommodations.

“CELLAR” A story having more than one-half of its height below the average level of the finished grade of the adjoining ground.

“CEMETERY” Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in connection with and within the boundaries of such cemetery.

“CENTERLINE” The centerline of the road or street as applied in this ordinance, shall be the centerline of the traveled roadway.

“CERTIFICATE OF OCCUPANCY” A document issued by the Zoning Inspector certifying that a building, structure, and/or its use or the uses of the premises conform to the provisions of this Ordinance or, in case of a ‘Non-Conforming Use’ that it constitutes such use under terms of this Ordinance.

“CHANNEL (STREAM BED)” A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduce continuously or periodically flowing water.

“CLINIC” A place used for the care, diagnosis, and treatment of sick, ailing, infirm, and injured persons, but who are not provided with board or rooms nor kept overnight on the premises.

“CLUB” A non-profit association of persons who are bona fide members organized for some common purposes and paying regular dues; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

“CLUB, COUNTRY” A club for golfing, tennis, hunting, fishing, horseback riding or similar sports.

“COMMISSION” The Advisory Plan Commission of Hagerstown, Wayne County, Indiana.

1 “COMMISSIONERS, COUNTY” The Board of Commissioners of the County of Wayne, State of Indiana.

“CONDOMINIUM” A multi-family project of one-family dwelling units which may consist of one, a part, or more than one building wherein the real property title and ownership are vested in an owner, who has undivided interest with others in common usage area and facilities which serve the development (I.C. 32-1-6-1).

“CONFINED FEEDING” The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where: (1) animals are confined, fed, and maintained for at least forty-five (45) days during any twelve (12) month period; and (2) ground cover or vegetation is not sustained over at least fifty (50%) of the animal confinement area. The term does not include (1) a livestock market where animals are assembled from at least two (2) sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal supervision; or (2) A livestock sale barn or auction market where animals are kept for not more than ten (10) days. *Statutory reference 327 IAC 16-2-4 “confined feeding”.*

“CONFINED FEEDING OPERATION” Any confined feeding of at least three hundred (300) cattle; six hundred (600) swine or sheep or thirty thousand (30,000) fowl; or animal feeding operations electing to be subject to IC 13-18-10; or animal feeding operations that causes a violation of the Indiana water pollution control laws or any rules of the Water Pollution Control Board or of IC 13-18-10. The confined feeding operation includes (1) manure storage structures; (2) manure treatment systems; (3) feedlot; (4) confinement buildings; (5) or waste liquid handling, storage and treatment systems. *Statutory reference 327 IAC 16-2-5 “confined feeding operation” and 327 IAC 16-2-44 “waste management system”.*

“CONSTRUCTION, BEGINNING OR COMMENCING OF” Shall mean a substantial change or alteration in the physical properties of a zoning lot or structure and where the incorporation of labor and material upon said lot or within said structure will incur liabilities for labor and materials.

“COUNTY HIGHWAY ENGINEER.” The Wayne County Highway Engineer.

“COUNTY HIGHWAY SUPERVISOR” The Wayne County Highway Supervisor.

“COVERAGE” That percentage of the plot or lot area covered by the building, or structure, including accessory buildings and structures.

“DAIRY” A commercial establishment for the manufacture or processing of dairy products.

“DENSITY” Number of living units permitted per gross acre of land, exclusive of lands, lying within the boundary of any public highway.

“DEVELOPMENT” The construction of a new building or other structure on a zoning lot, or the use of a tract of land for a new one.

“DISTRICT OR ZONE” That portion of territory within the corporation limits of the Town of Hagerstown and of the unincorporated two-mile jurisdictional territory of Wayne County within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

“DORMITORY” A building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

“DRIVE-IN ESTABLISHMENT” An establishment that is designed to provide either wholly or partly, service to customers while in their automobile parked upon the premises.

“DRIVE-IN MOVIE” An open lot or part thereof , with appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles or outdoor seats.

“DRIVE-IN RESTAURANT” Any place or premises used for sale, dispensing, or serving food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food refreshments, or beverages on the premises.

“DRIVE-THROUGH ESTABLISHMENT” A place of business, being operated for the sale and purchase of food and other goods, services, or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their automobiles.

“DUMP” A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.

“DWELLING” Any building or portion thereof, designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, boarding or lodging house, motel, hotel, and tourist home.

“DWELLING, DETACHED” A dwelling which is designed to be and is substantially separate from any other structure or structures except accessory buildings.

“DWELLING, MULTI-FAMILY” A building or portion thereof designed for or used exclusively for residential purposes by two (2) or more families living independently of each other.

“DWELLING, ONE FAMILY OR SINGLE FAMILY” A building designed for or used exclusively for residence purposes by one (1) family only.

“EASEMENT” A strip of land to be used by the general public, a corporation, a utility company, or a certain person(s) for a specific reason, for purposes of providing services to property.

“EXTRACTION OPERATION” The removal of soil, gravel, sand or dirt for purposes unrelated to excavation for construction where the excavation for construction where the extractive operation is conducted; this shall include the extraction of mining of minerals or the extraction of oil or other hydrocarbons.

“FAMILY” A person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a boarding or lodging house, motel or hotel, fraternity, or sorority house.

“FAMILY, GROUP HOME” A residential facility, licensed by the Indiana State Board of Health, that provides residential services for not more than eight (8) developmentally disabled persons, none of whom has a history of violent or antisocial behavior, and such staff, not to exceed two (2) at any one (1) time, as are necessary to adequately manage the home.

“FARM” A tract of five (5) or more acres land which is devoted to agriculture use and including necessary farm buildings or structures essential to the operation of the farm.

“FARM, ALCOHOL, PRODUCTION SYSTEM” The equipment and facilities necessary to produce alcohol for fuel or as an additive to other fuels.

“FARM BUILDING” Any building used for the housing of agriculture equipment, produce, livestock or poultry, or for the incidental or customary processing of farm products, and provided that such building is necessary to the operation of the farm. The term “Farm Building” shall not include “Farm Dwelling.”

“FARM DWELLING” A building or dwelling unit designed for or occupied exclusively by a farm family with the usual accessory buildings.

“FILTER STRIP” A filter strip is a relatively uniform and maintained vegetated area used for collecting sediment and cleansing run-off. *Statutory reference 327 IAC 16-2-12 “filter strip”.*

“FLEA MARKET” Any area where individual stands or spaces are assigned to two (2) or more individuals for the purpose of selling, buying, or exchanging goods.

“FLOOD” The water of any river or stream which is above the bank and/or outside the channel and banks of such river or stream; and also the water of any lake which is above and outside the banks thereof.

“FLOOD HAZARD AREA” The part of the flood plain not adequately protected from flooding by means of structural improvements.

“FLOOD PLAIN” The area adjoining a stream that has been or may be covered by floodwater including the floodway and floodway fringe.

“FLOODWAY” The channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to efficiently carry and discharge the flood water or flood flow of any river or stream.

“FLOODWAY FRINGE” That part of the flood hazard area lying outside the floodway.

“FLOOR AREA” The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. Said areas shall be measured to the outside surface of exterior walls. Said areas shall not include cellars or attics not used or intended to be used for human occupancy or other use, garage space, or accessory buildings.

“FOUNDATION” A foundation shall consist of a substructure, which has a continuous wall of cement blocks, poured concrete or masonry equivalent, enclosing and supporting the bottom of the structure, excluding windows and doors.

“FRONTAGE” All the property abutting on one side of a public right-of-way.

“FUNERAL HOME” A structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

“GARAGE, PARKING” A principal or accessory building other than a private garage, used for parking or temporary storage of passenger automobiles, and in which no service is provided.

“GARAGE, PRIVATE” A garage used for storage purposes only and having a capacity of not more than three (3) motor vehicles or not more than two (2) motor vehicles per family housed in the building to which such garage is accessory, whichever is greater.

“GARAGE, PUBLIC” Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

“GRADE” The percent of slope that a proposed or existing surface makes with the horizontal. Also, the elevation of an existing or proposed surface.

“GRADE, FINISHED” The completed surface of lawns, walks and roads brought to grades as shown on official plans on designs related thereof.

“GRAVEL PIT” A lot or land or part thereof used for the purpose of extracting stone, sand or gravel for sale as commercial operations.

“HEALTH FACILITY” Any building, structure, institution, or other place for the reception, accommodation, board, care or treatment of more than two (2) unrelated individuals requiring, in apparent need of, or desiring such services or combination of them, by reason of age, senility, physical or mental illness, infirmity, injury, incompetence, deformity, or any physical, mental or emotional disability or other impairment, illness or infirmity, including institutions commonly known as nursing homes, homes for the aged, retirement homes, boarding homes for the aged, sanitariums, convalescent homes, homes for the chronically ill, homes for the indigent. The term “Health Facility” does not include hotels, motels or mobile homes when used as such; hospitals, mental hospitals, institutions operated by the federal government; boarding homes for children; schools for the deaf or blind; day schools for the retarded; day nurseries; children’s homes or child placement agencies or those defined in I. C. 16-10-2-3.

“HEALTH OFFICER” The Wayne County, Indiana, Health Officer or his authorized representative.

“HEIGHT” The vertical distance from the highest point on a structure, excepting any chimney or antenna on a building, to the average grade where the walls or other structural elements intersect the ground.

“HEIGHT OF BUILDING” The vertical distance measured from the average ground level of the grade line about the building to the mean height between eaves and ridge for pitched roofs, and to the highest part of the roof for flat roofs.

“HMA.” Hot mix asphalt.

“HOME OCCUPATION” An accessory use of a service character customarily conducted within a dwelling by only the residents thereof, which is clearly secondary to the use of the dwelling for living purposes, does not change the character thereof, and of which

there is no exterior evidence other than a name plate, with less than one square foot area and which does not involve the keeping of a stock-in-trade in connection therewith. The practice of a single physician, surgeon, dentist, or other professional person, including an instructor in violin, piano, or other individual musical instrument limited to single student at a time, dressmaker, milliner, seamstress, each with not more than one paid assistant and who offers skilled services to clients and is not professionally engaged in the purchase or sale of goods, shall be deemed Home Occupations; beauty shops, barber shops in residential and agricultural districts shall be deemed Home Occupations provided; that the exterior of the residence is not changed; no sign larger than one square foot in area is displayed; not more than twenty-five (25) percent of the first floor area or one room, whichever is less, shall be used for said beauty shop; and not more than one paid assistant shall be employed. The sale of related items shall be permitted in beauty and barbershops. Dancing instructions, band instrument instruction in groups, tea room, tourist homes, or bed and breakfast, real estate offices, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein excepted shall not be deemed to be Home Occupations.

“HOSPITAL” An institution licensed by the Indiana State Board of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, emergency care facilities, training facilities, central service facilities and staff offices which are an integral part of the facility provided such institution is operated by, or treatment is given under direct supervision of a licensed physician. Types of hospitals include general, mental, chronic disease, and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer and the like.

“HOSPITAL, ANIMAL OR VETERINARY CLINIC” An area designated for the specific use of hospitalization and treatment of both large and small animals, including the housing of diagnostic equipment including radiographic instruments, and facilities for attending to the medical and surgical needs for animals in general.

“HOTEL” Any building or portion thereof used as a temporary abiding place for remuneration, with or without meals, containing twelve (12) or more guest rooms or suites with no provisions for cooking in any individual room or suite.

“HOUSE BOARDING (OR LODGING HOUSE)” A dwelling or part thereof where meals and/or lodging are provided, for compensation, for five (5) or more persons, not transients.

“HOUSE, FRATERNITY (OR SORORITY HOUSE)” A building occupied and maintained exclusively for students affiliated with an academic or professional college or university, or other recognized institution of higher learning.

“HOUSE, TOURIST – BED AND BREAKFAST” A building or part thereof, other than a hotel, boarding house, lodging house, resort or motel, where lodging is provided by a resident family for compensation mainly for transients.

“IMPROVEMENT LOCATION PERMIT” A document issued by the Zoning Inspector authorizing buildings, structures, or uses consistent with the terms of this Ordinance and for the purpose of carrying out and enforcing its provisions.

“INSTITUTION” A corporate body or establishment instituted or organized for an educational, medical, charitable or similar purpose.

“INDUSTRY OR INDUSTRIAL” The manufacturing, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes. The specific classification of Light and General Industrial uses are designated by Industrial Zone Districts.

“INDUSTRIAL PARK” A special or exclusive type of planned, industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

“INCORPORATION” Incorporation means the mixing of liquid or solid manure with the surface soil using standard agricultural practices, such as tillage. *Statutory reference 327 IAC 16-2-19 “incorporation”*. .

“INJECTION” Injection means the placement of liquid manure beneath the surface of the soil in the crop root zone using equipment specifically designed for this purpose. *Statutory reference 327 IAC 16-2-20 “injection”*.

“JUNK” Junk includes scrap metals and their alloys, bones, used materials and products (such as rags and cloth, rubber, rope, bottles, old tools and machinery, automobiles, fixtures, appliances, lumber, boxes or crates, pipe and pipe fittings), and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled for sale of parts.

“JUNK OR SALVAGE YARD” Any area where waste, discarded or salvaged materials are brought, sold, exchanged, baled, packed, stored, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including establishments where such uses are conducted entirely within a completely enclosed building, and not including establishments for the sale, purchase or storage of used cars in operable condition, or storage of materials incidental to manufacturing and agricultural operation.

“JURISDICTIONAL AREA” The unincorporated two-mile jurisdictional territory of Wayne County, Indiana that the Hagerstown Advisory Plan Commission has jurisdiction of for Planning and Zoning.

“KENNEL” Any premises or portion thereof on which more than four (4) and not more than ten (10) dogs, cats, or other domestic animals over four (4) months of age are kept; or on which more than three (3) and not more than ten (10) such animals are maintained, bred, or cared for, in return for remuneration, or are kept for the purpose of sale. The keeping of more than ten (10) such animals requires a variance of use.

“LANDFILL, SANITARY” A method of disposing of refuse on land without creating nuisance or hazard to public health or safety, by utilizing principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with compacted layer of suitable material at the conclusion of each day and at more frequent intervals as necessary.

“LIVESTOCK SALES YARD” A tract of land, which is used for the sale of domestic animals such as cattle, sheep, horses and hogs.

“LIVING AREA” The area comprised of the enclosed occupied living accommodations within a residence exclusive of basements, garages and open porches.

“LOADING SPACE” An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

“LOT” A parcel of land occupied or intended to be occupied by a principal building or group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this Ordinance, having at least the minimum area required by this Ordinance for a lot in the zone in which lot is situated and having its principal frontage on a public street or road.

“LOT AREA” The computed area contained within the lot lines.

“LOT, CORNER” A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lines is the corner.

“LOT, COVERAGE” The percentage of the lot area that is occupied by the ground area of a building and its accessory buildings.

“LOT, DEPTH” The mean horizontal distance between the front and rear lot lines measured in the general direction of the side lot lines.

“LOT, FRONTAGE” The linear distance of a lot measured at the front lot line where said lot abuts a street, measured between side lot lines.

“LOT, INTERIOR” A lot other than a corner lot.

“LOT, LINES” The lines separating the lot from a street, alley or other lots.

“LOT LINE, FRONT” The line separating the lot from the street on the established or proposed right-of-way lines, whichever is the greater, but in no case shall the line be less than twenty-five (25) feet from the centerline of the existing or proposed street.

“LOT LINE, REAR” The lot line opposite and most distant from the front lot line.

“LOT LINE, SIDE” Any lot line other than front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

“LOT LINE, STREET OR ALLEY” A lot line separating the lot from a street or alley.

“LOT, THROUGH” A lot having frontage on two parallel or approximately parallel streets.

“LOT WIDTH” The mean horizontal distance between the side lot lines measured at right angles to its depth at the building line.

“LOT OF RECORD” A lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Wayne County, Indiana, or a lot described in a deed by metes and bounds which has been recorded in said office prior to the effective date of this Ordinance.

“MAJOR HIGHWAY PLAN” The part of the Comprehensive Plan, now or hereafter adopted by the Town of Hagerstown, Indiana, which sets forth the location, alignment, dimensions, identifications and classification of existing and proposed public streets, highways, and other thoroughfares.

“MANUFACTURED HOME” A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation and connected to the required utilities, including, but not limited to plumbing, sanitation and electric. The structure shall bear the label of a HUD Manufactured Home that indicates the home has been inspected in accordance with the

requirements of Housing and Urban Development and is constructed in conformance with the Federal Manufactured Home Constructions and Safety Standards in effect on the date of manufacture.

“MANUFACTURED HOME OR MOBILE HOME ADDITION” The reconstruction, extension or alteration of an existing manufactured home or mobile home meeting the following: the addition shall be factory designed for the existing manufactured home or mobile home meeting the standards of the Manufactured Housing Association, or meet the requirements of the Building Code of the Town for a single family dwelling.

“MANUFACTURED HOME OR MOBILE HOME LOT” A designated site within a manufactured home or mobile home park for the exclusive use of the occupants of the home.

“MANUFACTURED HOME OR MOBILE HOME PARK” An area of land upon which at least five (5) manufactured and/or mobile homes, other than those on permanent foundations, are harbored for the purpose of being occupied as principal residences and includes all real and personal property used in the operation of the home park.

“MANUFACTURING, HEAVY” The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than minimal impacts on the environment, or that otherwise do not constitute light manufacturing, and which may include open uses and outdoor storage. Heavy manufacturing generally includes processing and fabrication of products made from extracted or raw materials. Heavy manufacturing shall not include any use that is otherwise listed specifically in any zoning district as a permitted use or special exception.

“MANUFACTURING, LIGHT” The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fume, odors, glare or health or safety hazards outside of the structure or lot where such assembly, fabrication, or processing of goods are housed entirely within an enclosed building. Light manufacturing generally includes processing and fabrication of finished products predominately from previously prepared materials. Light manufacturing shall not include any use that is otherwise listed specifically in any zoning district as a permitted use or special exception.

“MANURE APPLICATION” Manure application means the placement of liquid or solid manure by (1) spraying or spreading onto the land surface; (2) injection below the land surface; or (3) incorporation into the soil. *Statutory reference 327 IAC 16-2-23 “manure application”.*

“PARK, PLAYGROUND OR GAME COURT, COMMERCIAL” Recreation facilities operated as a business and open to the general public for a fee.

“PARK, PLAYGROUND OR GAME COURT, PRIVATE” Recreational facilities operated for restricted use in conjunction with a particular housing development or private residence, open only to the residents and guests of said development or private residence.

“PARK, PLAYGROUND OR GAME COURT, RESTRICTED” Recreational facilities operated as a non-profit enterprise by a government or non-profit organization, and open to the general public.

“PARKING AREA, PRIVATE” An open, surfaced area, other than a street or public way, designed, arranged, and made available for the temporary parking of motor vehicles, of occupants of the building or buildings for which the parking area is developed and is accessory.

“PARKING AREA, PUBLIC” An open, surfaced area, other than a street or public way, designed, arranged, and made available for the temporary parking of motor vehicles, and available to the public, whether for compensation, free, or as an accommodation for clients or customers.

“PARKING SPACE” An area, either within a structure or in the open, exclusive of driveways or access drives, for the parking of a single motor vehicle.

“PARKING, OFF-STREET” An off-street area suitable for vehicular parking and having access to a street or public way.

“PASTURE AREA” For lots or combination of lots that are less than five (5) acres in total area, the pasture area is the portion of the lot(s) that is designated or set aside for the practice of animal husbandry. An area of a lot(s) that is not considered a part of the pasture area is, but not limited to: structures built upon the lot(s), a driveway or parking area, residential yard space, flower or vegetable garden space, hard surfaced areas, e.g., concrete or asphalt covered soil, and other areas not likely to support pasturage.

“PERSON” A corporation, firm, partnership, association, cooperative organization or any other group acting as a unit, as well as a natural person.

“PERSONAL SERVICES” An establishment, other than an office, in which services other than health care are rendered to consumers on an individual basis, such as barber shops and beauty parlors.

“PLANNED DEVELOPMENT (DEVELOPMENT UNIT PROJECT)” A residential, commercial, industrial, or community development on a parcel of land in single ownership and consisting of two (2) or more buildings having any yard, court, parking, or loading space in common. Also known as a Planned Unit Development (PUD).

“PLAN ADMINISTRATOR” The Town’s designated official responsible for administering this Ordinance. The term Plan Administrator, Zoning Inspector, Plan Director and Building Commissioner have the same meaning.

“PLAN COMMISSION” The Hagerstown Advisory Plan Commission.

“PLAN(NING) DIRECTOR.” The Town’s designated official responsible for administering this Ordinance. The term Plan Director, Zoning Inspector, Building Commissioner, Plan Administrator have the same meaning.

“PLAT.” A map or drawing on which the subdivider’s plan of a subdivision is shown, which is presented for approval. The final plat is the map or drawing which is intended to be filed for record and which meets the requirements of Section XXXXX herein.

“POOL, SWIMMING (PRIVATE)” A swimming pool, used only by the owner of the pool and friends, as an accessory use at a private residence.

“POOL, SWIMMING (PUBLIC)” Any swimming pool other than a private swimming pool, public or semi-public in character: (1) Club Swimming Pool – a swimming pool used by any group or institution on a non-commercial basis for members and friends only; (2) Commercial Swimming Pool – a public swimming pool which is operated on a commercial basis or primarily for gain.

“PORCH” A roofed-over structure projecting from the front, sides, or rear wall of a building.

“PORCH, ENCLOSED” A porch which contains jalousies, permanent glass or louvered windows, screens, panels, or any other material on one side or all of its sides projecting from the building.

“PORCH, UNENCLOSED (OPEN)” A porch that is not enclosed in any way by screens, glass, panels, or any other material, with the exception of a balustrade or railing not to exceed three (3) feet in height above the floor of such porch.

“PREMISES” One or more lots which are in the same ownership and are contiguous, or separated only by a right-of-way or water body, including all buildings, structures and improvements.

“PRIMARY COMMUNICATION TOWER” A tower that is used for public communication purposes. These types of towers include towers for, but are not limited to (1) cellular communication, (2) broadband Internet service, (3) micro data transmissions, (4) emergency services, and (5) commercial satellite television transmitters.

“PRINCIPAL BUILDING” A building in which is conducted the main or principal use of the lot on which said building is located.

“PROFESSIONAL ACTIVITIES” The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, attorneys, engineers, and similar professions.

“PROPERTY LINE” The division line between properties of different owners.

“PUBLIC” Owned, operated, or controlled by a governmental agency; either Federal, State or Local.

“PUBLIC UTILITY” Any person, firm, corporation, governmental department or board, duly authorized to furnish and furnishing under state or municipal regulations to the public, electricity, gas, steam, transportation, water or telephone service.

“PUBLIC WATER SUPPLY SURFACE INTAKE STRUCTURE” Any structure used for the purpose of providing water through a public water supply system. *Statutory reference 327 IAC 16-2-31” public water supply surface intake structure”*

“RAILROAD RIGHT-OF-WAY” A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train shed, warehouses, car shops, car yards, locomotive shops, or water towers.

“RECREATION, COMMERCIAL” Recreation facilities operated as a business and open to the general public for a fee.

“RECREATION, NON-COMMERCIAL, PRIVATE” Clubs or recreation facilities operated by a non-profit organization and open only to bona fide members and guests of such non-profit organization.

“RECREATION VEHICLE” A temporary dwelling for travel, recreation and vacation use, including, but not limited to:

- (A.) Travel Trailer: A vehicle, identified by the manufacturer as a trailer, built on a chassis eight (8) feet or less wide and thirty-five (35) feet or less long, and designed to move on the highway.

- (B.) Pick-up Coach: Structure designed to be mounted on a truck chassis or cut down car or truck
- (C.) Fifth-Wheel Coach: Structure designed to be mounted in a truck bed and pulled on the highway, built on a chassis eight (8) feet or less wide and forty (40) feet or less long.
- (D.) Motor Homes: A self-propelled vehicle with a dwelling constructed as an integral part of the vehicle or so altered.
- (E.) Camping Trailers: A folding structure built on a chassis with wheels and designed to move on the highway.

“RECREATION VEHICLE PARK” Any lot, parcel or tract of land approved for the location of two or more recreational vehicle sites, established for maintained for occupancy by recreation vehicles of the general public as temporary living quarters for recreation or vacation purposes.

“RELIGIOUS INSTITUTION” A church, temple, chapel, synagogues, convent, seminary, monastery, nunnery, rectory, parsonages, parish houses, and religious retreats.

“RESIDENCE” A building, or any part of a building, which contains living and sleeping accommodations for permanent occupancy. This includes all single-family and multi-family dwellings.

“RESTAURANT” Any establishment, however designed, at which food is sold for consumption on the premises to patrons seated within an enclosed building, or elsewhere on the premises.

“RETAIL OR SERVICE NEIGHBORHOOD BUSINESS” Typically a small business specializing in one type of product or service, e.g., bookstore, barber shop, beauty salon, drug store, florist, medical and dental establishment. The business is to be conducted within a completely enclosed building, except for accessory off-street parking and loading facilities and drive up service window. Retail or service neighborhood business shall not include any use that is otherwise listed specifically in any zoning district as a permitted use or special exception.

“RETAIL OR SERVICE COMMUNITY BUSINESS” A more intensive retail or service use than neighborhood business use. For example, auto parts, gas station, carpet store, funeral home, furniture store, liquor store, restaurant, toy store, bank, vehicle repair and service. Outside accessory uses are permitted which are clearly subordinate the primary enclosed

business. Community business shall not include any use that is otherwise listed specifically in any zoning district as a permitted use or special exception.

“RETAIL OR SERVICE GENERAL BUSINESS” A business or service having high intensive vehicular or pedestrian traffic. Outside display of goods and articles is permitted. Typically, retail or service general business have multiple products and services available. General business shall not include any use that is otherwise listed specifically in any zoning district as a permitted use or special exception.

“ROADBED.” The portion of the right-of-way between the outside shoulder lines or curb faces.

“ROADSIDE STAND” A wholly or partially enclosed shed for the sale of neighborhood agricultural products or other products produced on the premises, which stand shall be located so as to permit customers to drive completely off of the highway while dealing.

“ROADWAY.” The paved areas of the right-of-way including all curb and gutter facilities.

“SANITARIUM, SANATORIUM” A private hospital, whether or not such facility is operated for profit.

“SCHOOL” An institution consisting of teachers and pupils, irrespective of age, gathering together for instruction in any branch of learning arts or the sciences.

“SCHOOL, COLLEGE” Same as elementary and secondary school except general education is provided above the level of the secondary school and may include junior college, college, or university.

“SCHOOL, NURSERY” A school designed to provide daytime care in instruction of two or more children from two to five years of age inclusive, and operated on a regular basis.

“SCHOOL, VOCATIONAL” Same as elementary school and secondary school except that the primary activity is training in a trade or vocation.

“SCREEN” A fence, wall, row of evergreen hedges or shrubs, row of supported evergreen vines, or in applicable cases, an accessory building, with components so located, spaced and maintained that it provides an effective visual barrier, six (6) feet or more in height.

“SENSITIVE AREA” A sensitive area is a site where conditions poses a specific water quality threat to one (1) or more of the following (1) Public water supply wells; (2) Wellhead protection areas; (3) Drinking water supply reservoirs; (4) Identified wetlands, except for wetlands constructed for manure management; (5) Karst terrain; (6) habitat of an endangered species; and (7) Natural areas including parks, natural preserves as regulated

under IC 14-31, historic sites as defined by IC 14-8-2-125, and public lands as defined by IC 14-38-1-5. *Statutory reference 327 IAC 16-2-34 "sensitive area", 327 IAC 16-2-21 "karst terrain".*

"SETBACK" The required distance between a structure or accessory structure and any lot line on which structure is located.

"SETBACK, FRONT" The distance from the centerline of the right-of-way to the front wall or that part of the structure nearest the street line, measured at right angles from the street line, not including steps or open porches.

"SETBACK, REAR" The distance from the rear lot line of the nearest part of the structure, measured from the rear lot line.

"SETBACK, SIDE" The distance from the side lot line to the nearest part of the structure, measured from the side lot line.

"SEWERS, CENTRAL OR GROUP" An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.

"SEWERS, ON SITE" A septic tank or similar installation on an individual lot for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of the Wayne County Health Department.

"SHADOW FLICKER" The shadow on the ground and surrounding structures that is caused by the rotating blades of the *WECS*.

"SHOPPING CENTER" A group of commercial establishments, planned, developed, owned and managed as a unit, with off-street parking on the property, and related in its location, size, and type of shops to the trade area, which the unit serves.

"SHOULDERS." The portion of the roadbed not covered by pavement.

"SIDEWALK" That portion of the road right-of-way, which is improved for the use of pedestrian traffic.

"SIGN" Anything that conveys a business or commercial message using a written text, pictorial representation, emblem, flag or any other figures of similar character which is affixed to a structure, painted on a structure, mounted or resting on the ground, or projected onto a surface. A sign also includes anything that serves the purpose of attracting attention to an object, product, place, activity, institution, organization or business. For the purpose of

this definition, a vehicle that is not properly registered and licensed or in inoperable condition is considered a structure if the vehicle is used as a sign. The term “sign” does not include the flag, pennant, or insignia of any nation, state, city or other political unit of government; nor does it include any political, educational, charitable, philanthropic, civic, religious or like campaign, drive, movement or event. Further, this definition shall not be held to include any board, sign or surface used to display any official notice issued by any court or public office or posted by a public officer in the performance of a public duty.

“SIGN, AREA OF” The total exterior surface computed in square feet of a sign having but one exposed exterior surface; one-half (1/2) the total of the exposed exterior surface computed in square feet of a sign having more than one surface.

“SIGN, ADVERTISING” A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises where displayed or only incidentally on the premises.

“SIGN, BUSINESS” A “sign” which directs attention to an activity, business or profession conducted on the premises where displayed. A real estate sign advertising the sale, rental, or lease of the premises on which it is maintained, institutional bulletin boards, and a professional or announcement sign accessory to a “home occupation”, or dwelling shall not be deemed a “business sign”.

“SITE PLAN” A plan of a lot on which is shown location of all existing or proposed buildings, structures, right-of-ways, boundaries and all essential dimensions.

“SPECIAL EXCEPTION” A use permitted within a district other than a principally permitted use requiring approval of the Board of Zoning Appeals because of its unusual nature.

“SPRAY IRRIGATION” A means by which the application of manure or waste liquid on the land is through a stationary or mobile sprinkler type system. *Statutory reference 327 IAC 16-2-36 “spray irrigation”*

“STAGING” Staging means the temporary placement of manure in a pile at the site where the manure will be land applied. *Statutory reference 327 IAC 16-2-37 “staging”*.

“STORY” That portion of a building, including between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

“STORY, FIRST” The lowest story or the ground story of any building the floor of which is not more than twelve (12) inches below the average level of the adjoining ground at the

exterior walls of the building; except that any basement or cellar used as a dwelling shall be deemed the first story.

“STORY, HALF” A story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story; provided, however, that any partial story used as a dwelling shall be deemed a full story.

“STORY, HEIGHT OF” The vertical distance from the top surface of the floor to the top surface of the floor next above. The height of the topmost story is the distance from the surface of the floor to the top surface of the ceiling joists.

“STREET.” A right-of-way dedicated to the public use, which affords the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, land, drive, place, cul-de sac or other appropriate name. A street may also be identified, according to type of use, as follows:

- (A) Primary Thoroughfares are those streets so designated in the Major Highway Plan.
- (B) Secondary Thoroughfares are those streets so designated in the Major Highway Plan.
- (C) Parkway are those streets so designated in the Major Highway Plan.
- (D) Collector Streets are those streets which carry traffic from minor streets to primary or secondary thoroughfares, including access streets to neighborhoods or sub-neighborhoods and afford traffic circulation within such neighborhoods or sub-neighborhoods.
- (E) Minor Streets are those streets, which are used exclusively or principally for access to abutting properties.
- (F) Frontage Access Streets are minor streets which are parallel to and adjacent to principal thoroughfares and which provide access to abutting properties and protection from through traffic.
- (G) Cul-de-sacs are minor streets having only one end open to traffic and being permanently terminated at the other end by a vehicle turn-around.

- (c) Does not require the extension of a public water and/or public sewer system nor does the land divided have public water and/or public sewer available; and,
- (d) It can be demonstrated that each lot is of sufficient soil type(s) to support the installation of a private sewer system; and,
- (e) The division of land is not in conflict with any portion of the Comprehensive Plan or Zoning Ordinance; and,
- (f) The land divider shall dedicate to the public sufficient real property to meet one-half (1/2) of the required right-of-way for the public thoroughfare that borders the entire frontage of both lots; and,
- (g) Each lot shall comply with the developmental standards of the Zoning Ordinance; and,
- (h.) Each lot shall have an approved driveway entrance; and,
- (i) Each lot shall remain titled to the land divider for not more than a period of ninety (90) days after the division of land is approved, unless an extension of time is granted by the Plan Administrator; and,
- (j) The Plan Administrator shall determine that such a division of land will not adversely affect the land adjoining the divided properties.

(D) The terms “lot”, “parcel”, “tract”, and “site” are synonymous for the purpose of this definition.

“SURFACE APPLICATION” Surface application means the placement of manure by spray irrigation or spreading onto the land surface. *Statutory reference 327 IAC 16-2-38 “surface application”.*

“SURFACE WATER” Surface water means water present on the surface of the earth including (1) streams, (2) lakes, (3) ponds, (4) rivers, (5) swamps, (6) marshes, or identified wetlands except for wetlands constructed for manure management. *Statutory reference 327 IAC 16-2-39 “surface water”.*

“SWEPT AREA” The outer most diameter of the circle created by a turning rotor(s) or blade(s) of a *WECS*.

“TEMPORARY CONSTRUCTION OFFICE” A structure placed or constructed for the purpose of housing personnel and equipment required for development or sale of the development, which shall be removed when no longer needed.

“TERRACE” An open porch without a permanent roof.

“THEATER” A building or part of a building devoted to showing moving pictures or stage productions on commercial basis.

“TOTAL HEIGHT” Regarding *WECS*, the distance measured from the ground level at the base of the tower to the highest extension of the blade or rotor.

“TOURIST CABINS” A group of buildings, including separate cabins which contain living and sleeping accommodations for transient occupancy.

“TOWN HOUSE” A building consisting of a series of one-family attached dwelling units having common party walls between each dwelling unit, and utilizing common open space and parking.

“USE” The specific purpose for which land or a building or structure is arranged, designed or intended, or for which either land or a building, or a structure is, or may be occupied or maintained.

“USE, PERMITTED” Any building, structure, or use which complies with applicable regulations of this Ordinance, governing uses of the Zone District in which such building, structure, or use is located.

“USE, PRINCIPAL” The main or primary purpose of which a building, structure, or land is designed, arranged or intended, or for which they may be used, occupied or maintained under this Ordinance. The use of any other building, or structure on the same land and incidental or supplemental thereto and permitted under this Ordinance shall be considered an accessory use.

“USE, PROHIBITED” A use of a building, structure, lot or land or part thereof which is not listed as a permitted or Special Exception Use.

“USE, PUBLIC” Public parks, schools, fire and police stations, libraries, museums, city and town halls, county courthouses, utility complexes, fairgrounds and other administrative and cultural buildings and structures, but not including public land or buildings devoted solely for the storage and maintenance of equipment and materials and public service facilities.

“USE, TEMPORARY” An activity conducted for specific limited period of time which may not otherwise be permitted by the provisions of this Ordinance.

“VEGETATIVE MANAGEMENT SYSTEM” A vegetative management system is an area with vegetation designed to accept contaminated runoff or waste liquid after settling for the purpose of treatment or infiltration into the soil. *Statutory reference 327 IAC 16-8-10 “vegetative management system”*.

“WALL” A structure of wood, stone, or other materials or combination thereof intended for defense, security, screening, or enclosure, or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads.

“WIND ENERGY CONVERSION SYSTEM (WECS)” The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, *wind tower*, transformer, turbine, vane, wire, or other component used in the system. *WECS* shall be classified as either a:

Large Wind Energy Conversion System. A *WECS* that has a nameplate capacity (manufacturer’s rating) of more than 50 kilowatts per *wind tower*, or a *total height* of more than 100’, or a *swept area* of more than 30’. Any *WECS* meeting one or more of these criteria shall be considered a *large wind energy conversion system*.

Small Wind Energy Conversion System. A *WECS* that has a nameplate capacity (manufacturer’s rating) of 50 kilowatts or less per *wind tower*, and a *total height* of 100’ or less, and a *swept area* of 30’ or less shall be considered a *small wind energy conversion system*.

A Micro Wind Energy Conversion System is not considered a *WECS*.

“WIND FARM” Two or more *large wind energy conversion systems* on a single property or aggregated properties.

“WIND TOWER” The monopole, freestanding, or guyed structure that supports the energy capture, conversion, storage and transfer components of a *WECS*. These *wind towers* are not attached to any building.

“YARD” An open space other than a court, on a lot, unoccupied and obstructed from the ground upward except as permitted in this Ordinance.

“YARD, FRONT” A yard extending across the full width of the lot between any part of a building not hereafter excepted and the front lot line; and the depth of a front yard is the

minimum horizontal distance between any part of the building, other than such parts as hereinafter excepted, and the front lot line.

“YARD, FRONT DEPTH, HOW MEASURED” Yard measurement, for property abutting a public thoroughfare, shall be made from the centerline of said street or roadway.

“YARD, REAR” A yard extending across the full width of the lot between a building and the rear lot line; and the depth of a rear yard is the minimum horizontal distance between any part of the building, other than such parts as hereinafter excepted, and the rear lot line.

“YARD, SALES, PRIVATE OR RUMMAGE” A sale of used clothing and/or household items conducted only by the immediate members of one or two families in a residence, private garages, porch, or yard.

“YARD, SIDE” A yard extending between the front yard and the rear yard between a building and the nearest side lot line; and the width of a side yard is the minimum horizontal distance between any part of a building, other than such parts as hereinafter excepted, and the nearest side lot line.

“YARD, SIDE WIDTH, HOW MEASURED” Side yard width shall be measured from the nearest side lot line and, in case such lot line is a side street lot line, from the right-of-way line of the existing street; provided, however, that if a proposed right-of-way line of such street has been officially established, then the required side yard least width shall be measured from such proposed right-of-way line.

“ZONING INSPECTOR” The term “Zoning Inspector”, “Plan Administrator”, “Building Commissioner” and “Plan Director” have the same meaning within this Ordinance.

“ZONING MAP” The Zoning Map or Maps of the Town of Hagerstown, Wayne County, Indiana, together with all amendments subsequently adopted.

DISTRICTS AND BOUNDARIES

§151.200 ESTABLISHMENT OF DISTRICTS.

The Hagerstown zoning jurisdiction is hereby divided into eight (8) categories of zoning districts as follows:

AGRICULTURAL – RESIDENTIAL DISTRICTS

A-1	Agricultural District
R-1	One-Family Residence District
R-2	Multi-Family Residence District

NON-RESIDENTIAL DISTRICTS

C-1	Neighborhood Business District
C-2	Community Business District
C-3	General Business District
M-1	Light Industrial District
M-2	General Industrial District
AZ	Airport Zoning Overlay District

§151.201 ZONING MAP.

Districts and boundaries are hereby established. Said districts and boundaries thereof are hereby adopted and established as the Zoning Map of Hagerstown, Wayne County, Indiana. Together with all amendments, notations, references, data, district boundaries and other information, shown thereon shall be and are hereby made a part of this Ordinance. Said Zoning Map properly attested shall be and remain on file in the office of the Clerk-Treasurer.

§151.202 DISTRICT BOUNDARY INTERPRETATION

- (A) Except where referenced on the Zoning Map to a street or alley lines or other designated line by dimensions shown on said Map, the district boundary lines follow lot lines or the center lines of streets or alleys as they existed at the time of the original adoption of the Zoning Ordinance. However, where a district line obviously does not coincide with the lot lines or such centerlines or where it is not designated by dimension, it shall be determined by scaling.
- (B) Where a district boundary line divides a lot which was in single ownership at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot under this Ordinance

shall be considered as extending to the entire lot. The use so extended shall be deemed to be conforming.

- (C) All questions concerning the exact location of district boundary lines shall be determined by the Commission according to rules and regulations which may be adopted by it.

§151.203 PROCEDURES FOR ANNEXED OR VACATED AREAS.

- (A) Territory detached from the corporation boundaries of the Town subsequent to the effective date of this Ordinance shall, upon the effective date of an annexation by the Town, become a part of the A-1 District. Such districting shall be continued until amended. The Commission shall recommend to the Town Council, within a period of not to exceed six (6) months from such date of annexation, a final zoning districting plan for such property.
- (B) Whenever any street, alley or other public way is vacated by official action as is provided by law, the zoning district adjoining the side of such public way shall be extended automatically, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which shall henceforth be subject to all regulations of the extended district or districts.

§151.204 UNIDENTIFIED PROPERTY

In every case where property has not been specifically included within a district, the same is hereby declared to be in the A-1 District within the unincorporated jurisdictional area and R-1 District within the corporation jurisdictional area.

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EFFECTS OF DISTRICTING AND GENERAL REGULATIONS

§151.300 DISTRICT, MORE RESTRICTED OR LESS RESTRICTED.

Each of the districts in the following list shall be deemed to be more restricted than any of the districts succeeding it, and each shall be deemed to be less restricted than any of the districts preceding it: A-1, R-1, R-2, C-1, C-2, C-3, M-1, M-2. The restrictions found in the AZ district apply to all of the above listed districts.

§151.301 CONFORMANCE REQUIREMENTS.

Except as hereinafter specified, no land, buildings, structure, or premises shall hereafter be used, and no building, or part thereof, or other structure shall be located, erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district in which it is located. Regulations include:

- (A) Structures or land, including performance standards for the control of any “dangerous and objectionable elements”, as defined herein, in connection with such use; and
- (B) The height, size or dimensions of buildings or structures, the size or dimensions of lots, yards, and other open spaces surrounding buildings; and
- (C) The provision, location, size, improvement, and operation of off-street parking, loading, and unloading spaces.

§151.302 ADDITIONAL USES – BOARD DETERMINATION.

Uses other than those specifically mentioned in this Ordinance as permitted uses in each of the districts may also be allowed therein, except for uses prohibited therein or which are first permitted in a less restrictive district and provided that, in the judgement of the Board as evidenced by decision of record that such other uses are of similar character to those mentioned and will have no adverse influence on adjacent properties or the neighborhood or the community than the permitted uses specifically mentioned for the district.

§151.303 ADDITIONAL PROHIBITED USES – BOARD DETERMINATION.

Uses other than those specifically prohibited in this Ordinance in any district shall also be prohibited therefrom, provided that in the judgement of the Board, as evidenced by decisions of record, such other uses are similar in character to those specifically prohibited in that they would have similar or more serious adverse influence on adjacent properties or the neighborhood or the community than the uses specifically mentioned as prohibited in the district.

§151.304 YARD REQUIREMENTS ALONG ZONING BOUNDARY LINE IN THE RESTRICTED DISTRICT.

Along any zoning boundary line on a lot in the less restricted district, a front yard facing a lot in the more restricted district and any side yard, rear yard or court abutting said zoning boundary line, unless subject to greater restrictions or requirements stipulated by other provisions of this Ordinance, shall have a minimum depth and width equal to the average of the required minimum depth or width for such front yards, side yards, rear yards, or courts in the two districts on either side of such zoning boundary line. In cases where the height of a proposed structure on such lot in the less restricted district is greater than the maximum height permitted in the adjoining more restricted district, the minimum depth or width of the side yard, rear yard or court for such structure shall be determined by increasing the minimum depth or width for the highest structure permitted in such more restricted district by one (1) foot for each two (2) feet by which the proposed structure exceeds the maximum height permitted in said more restricted district.

§151.305 STREET FRONTAGE REQUIREMENTS.

Except as permitted by other provisions of this Ordinance, no lot shall contain any building used in whole or in part for residential purposes unless such lot abuts for at least forty (40) feet on a street; and there shall be not more than one, single-family dwelling for such frontage.

§151.306 REQUIRED AREA OR SPACE CANNOT BE REDUCED.

No lot, yard, court, parking area or other space shall be reduced in area or dimensions so as to make said area or dimension less than the minimum required by this ordinance. No part of a yard, court, parking area, or other space provided for any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, court, parking area or other space required under this Ordinance for another building or structure.

§151.307 OFF-STREET PARKING AND LOADING.

In every district spaces for off-street parking and for off-street loading and unloading shall be provided as required by this Ordinance.

§151.308 ENCROACHING DOORS.

Every garage building or portion of a main building used for garage purposes shall be so equipped that the doors when open or being opened will not project beyond any lot line of the lot on which such building is located.

§151.309 ESSENTIAL SERVICES.

The erection, construction, alteration, or maintenance, by communication companies, public utilities, or governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment for the furnishing of adequate service by such companies, public utilities, or municipal or other governmental agencies if not occupied by personnel, and does not provide toilet facilities, shall be permitted for the above in any zone district provided that the structure is at least ten (10) feet from side property lines, twenty (20) feet from rear property line and set back from the right-of-way the minimum distance as required in the zoning district where the structure is to be located, and adequate off-street parking is provided for service cars or trucks.

Essential services as described above shall be permitted as authorized and regulated by law and other provisions of the Town, it being the intention hereof to exempt such essential services from the application of this ordinance.

§151.310 UNSAFE BUILDINGS.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

§151.311 PENDING APPLICATION FOR BUILDING PERMITS.

Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof for which official approvals and required building permits have been granted before the enactment of this Ordinance, the construction of which shall have been completed within twelve (12) months after the effective date of this Ordinance.

§151.312 EXTRACTION OF MINERALS AND OIL DRILLING – PROHIBITED.

The extraction or mining of minerals or the extracting of oil or other hydrocarbons are expressly prohibited within lands which are used for residential purposes and where there are eight (8) or more residences within a quarter mile square area. Such extraction or mining is also expressly prohibited within any R-1 or R-2 Districts that are contiguous to the Town since these areas have been planned for residential development.

NON-CONFORMING USES.

§151.320 PRIOR USES – NON-CONFORMING PERMITTED TO CONTINUE.

- (A) Except as hereinafter specified, any use, building or structure, existing at the time of the enactment of this Ordinance may be continued, even though such use, building or structure may not conform with the provisions of this Ordinance for the district in which it is located.
- (B) No existing building or lot devoted to a use not permitted by this Ordinance in the district in which such building or lot is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed, substituted, or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building or premises is located and except as follows:
 - (1) When authorized by the Board, in accordance with the provisions of Sections 151.900 through 151.910, the substitution for a non-conforming use of another not more objectionable non-conforming use or an extension or a non-conforming use may be made.
 - (2) When authorized by the Board in accordance with the provisions of Sections 151.900 through 151.910, the extension or completion of a building devoted to a non-conforming use upon a lot occupied by such building or on a lot in question on the date the use of such building became non-conforming and where such extension is necessary and identical to the existing use of such building.
 - (3) When authorized by the Board in accordance with the provisions of Sections 151.900 through 151.910, a non-conforming use may be extended throughout those parts of a building which were manifestly designed and arranged for such use prior to the date when such use of said building became non-conforming, if no structural alterations, except those required by law, are made therein.
- (C) Whenever a non-conforming use has been changed to a conforming use, such use shall not thereafter be changed to a non-conforming use.
- (D) No building, structure, or lot where a non-conforming use has ceased for one-(1) year or more shall again be put to a non-conforming use.
- (E) Such repairs and maintenance work as required to keep it in sound condition may be made to a non-conforming building or structure, provided no structural alterations shall be made except such as are required by law or authorized by the Board.

- (F) The Board may authorize variances in the event that a non-conforming use existed on the date of passage of this Ordinance and the use has ceased for a period of one continuous year. The variance can include the use in effect on the date of passage of this Ordinance or a substitution of a use not less restrictive than the use that was non-conforming on the date of passage of this Ordinance.

§151.321 MINIMUM LIVING AREA OF A RESIDENCE

The minimum living area of a residence (excluding attached garages, patios, porches, decks and unfinished basements) shall exceed nine hundred fifty feet (950 ft.).

AGRICULTURAL DISTRICTS

A-1 AGRICULTURAL DISTRICT

§151.400 PRINCIPAL PERMITTED USES

- (A) On tracts of five (5) acres or more the following agricultural uses will be permitted and, buildings or structures or land may be erected, altered, and enlarged which is arranged or designed for the following uses. The uses in this district are, in general, the traditional agricultural activities and other uses that are not likely to interfere with those agricultural activities. However, confined feeding operations (see definitions) are not permitted, except by a variance of use.
- (1) Agricultural and the usual agricultural buildings, structures, farm office buildings, commercial and non-commercial nurseries and greenhouses.
 - (2) A single one family dwelling per parcel.
 - (3) Churches, schools, and colleges for academic instruction, public buildings, structures, and properties of the recreational, cultural, administrative, or public service type.
 - (4) Non-commercial, recreation areas and centers including country clubs, swimming pools, golf courses, and summer camps, public and private forests and wild-life preserves, and similar conservation areas.
 - (5) Kennel.
 - (6) Cemetery.
 - (7) All signs in accordance with provisions of Section 151.540.
 - (8) Sawmill. (Cutting timber grown primarily on the premises.)
 - (9) Essential services as permitted in Section 151.309.
 - (10) Community Development Unit Projects in accordance with the provisions of Sections 151.730 through 151.755.
 - (11) None of the foregoing may be used in excess of any of the other restrictions or prohibitions of this Ordinance.

(12) All non-conforming uses, pursuant to Section 151.320.

(13) All other uses as indicated in the District Use Index

- (B.) On lot(s) of less than five (5) acres, animal husbandry shall not exceed one (1) animal unit per one (1) acre of pasture area.
- (C.) On lot(s) of less than five (5) acres where animal husbandry is practiced, any structure used for animal husbandry shall meet the same setbacks as other permitted agricultural uses and not the setbacks of an accessory use structure.
- (D.) Animal husbandry not permitted in a platted and recorded subdivision, unless otherwise permitted by the restrictive covenants.

§151.401 SPECIAL EXCEPTIONS

- (A.) The uses listed as Special Exception for the A-1 Agricultural District in Section 151.790 may be permitted in accordance with the provisions of Sections 151.780 through 151.789.
- (B.) On tracts of less than five (5) acres animal husbandry is not permitted except as a Special Exception in accordance with the provisions of Sections 151.780 through 151.789, or as a Principal Permitted use in accordance with Section 151.400.
- (C.) A Confined Feeding Operation is not permitted except by a Variance of Use in accordance with the provisions of Section 151.907.
- (D.) A Wind Energy Conversion System (WECS) is permitted by Special Exceptions in accordance with the provisions of Sections 151.780 through 151.789.

§151.402 ACCESSORY USES

Those uses, buildings, or structures customarily incidental to any aforesaid principal use or Special Exception shall be permitted in conjunction with such use, including the following:

- (A) Fall Out Shelter.
- (B) Living quarters of persons employed on the premises.
- (C) A private garage or parking area subject to provisions of Sections 151.520 through 151.526.
- (D) Home occupations.

- (E) Rooming or boarding house (lodging house).
- (F) Temporary roadside stands, offering for sale only neighborhood agricultural products or other products on the premises.
- (G) Advertising signs, business signs, real estate signs, professional or announcement signs, institutional bulletin boards, subject to the provisions of Section 151.540.
- (H) Temporary buildings incidental to construction.
- (I) All accessory structures for other than farm use shall require a building permit acquired pursuant to Town of Hagerstown Building Code.

§151.403 HEIGHT REGULATIONS

No principal structure shall exceed two and one half (2 ½) stories or thirty (30) feet and no accessory structure shall exceed the height of the principal structure except as provided in Sections 151.811 + 151.812

§151.404 LOT AREA, WIDTH, AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Sections 151.810 through 151.822.

	MINIMUM LOT AREA	MINIMUM LOT WIDTH	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH - EACH	MINIMUM REAR YARD DEPTH
	ACRES	FEET	FEET	FEET	FEET
Dwellings	1 ½	250	100	50	50
	1*	200*	100*	40*	40*
Other Permitted Uses	3	275	100	50	50

*Minimum requirements if located on public sewer and water systems.

§151.405 MINIMUM SETBACK REQUIREMENTS

The minimum setback requirements for any permitted use on lots with a width of less than 200 feet as shown in the records of the Recorder of Wayne County on (date) are as follows:

- (A) Front yard depth 65 ft.
- (B) Rear yard depth 40 ft.
- (C) Side yard depth (each) 20 ft.

Accessory structures may be located in the rear yard within three (3) feet of rear or side lot lines.

Accessory structures may be located in the side yard provided they meet the minimum setback requirements for a principal permitted use.

Accessory structures may be located in the front yard provided they meet the minimum setback requirements for a principal permitted use. Exception: Front yard placement is not permitted in a platted and recorded subdivision.

§151.406 SUBDIVISION

- (A) Subdivision of land for residential purposes is permitted in this zone.
- (B) Subdivision of land for commercial or industrial purposes is not permitted in this zone.

RESIDENTIAL DISTRICTS

All residential structures and uses shall be subject to the specifications and regulations of the following specific sections for R-1, One-Family Residential District; and, R-2, Multi-Family Residential District, and general specifications as set out herein, pertaining to all use districts.

R-1 ONE-FAMILY RESIDENCE DISTRICT

§151.410 PRINCIPAL PERMITTED USES

Single family dwellings are permitted. No building, use, structure, or improvements on land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses, except as provided herein and in Section 151.320.

- (A) Agricultural, but not including animal and poultry husbandry and dairying.
- (B) A single one-family dwelling per parcel
- (C) Institutional as follows:
 - (1) Churches, rectories, parish house.
 - (2) Libraries, public.
 - (3) Parks, playgrounds, publicly owned.
 - (4) Schools; elementary, and high, public, private & parochial.
 - (5) Museums.
 - (6) Public cultural recreation and exhibition.
 - (7) Offices of professionals.
 - (8) All other uses as indicated in the District Use Index
- (D) Essential services as defined in Section 151.309.
- (E) Development Unit Projects in accordance with the provisions of Sections 151.730 – 151.755.

- (F) Subdivision of land for residential purposes is permitted. Subdivision for commercial or industrial purposes is prohibited.

§151.411 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the R-1 One-Family Residence District in Section 151.790 may be permitted in accordance with the provisions of Sections 151.780 through 151.789.

§151.412 ACCESSORY USES

✓ Accessory uses, buildings or structures customarily incidental to any aforesaid principal use or special exception shall be permitted in conjunction with such use, including the following:

- (A) Fall-out shelter.
- (B) The keeping of not more than two (2) roomers or boarders by a resident family.
- (C) The keeping of domestic animals exclusively for the use and personal enjoyment of the occupants of the principal building but limited to cats, dogs and smaller animals housed within the principal building but not including a kennel.
- (D) A private garage or parking area subject to the provisions of Sections 151.520 through 151.526.
- (E) Private swimming pools.
- (F) Home occupations provided that not more than one-fourth (1/4) the area of one (1) floor of the dwelling is devoted to such use.
- (G) Real estate signs, professional or announcement signs and institutional bulletin boards subject to the provisions of Section 151.540.
- (H) Temporary buildings for uses incidental to construction.

§151.413 HEIGHT REGULATIONS

No principal structure shall exceed two and one-half (2 ½) stories or thirty (30) feet and no accessory structure shall exceed the height of the principal structure except as provided in Sections 151.811-151.812.

§151.414 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Sections 151.810 through 151.822.

	MINIMUM LOT AREA	MINIMUM LOT WIDTH	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH - EACH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Dwellings					
1 & 1 ½ stories (on public sewer and water)	8,000 * 7,200**	65 * 50**	50 * 20% of lot depth**	8 * 20% of lot width 5' minimum**	30 * 15% of depth 15' minimum**
(on septic)	1 acre	65	50	8	30
2 & 2 ½ stories (on public sewer and water)	10,000	75	50	10	30
(on septic)	1 acre	75	50	10	30
Other Principal Permitted Uses	20,000	100	55	20	40

* Development standards for the unincorporated area.

**Development standards for the incorporated area.

§151.415 COURTS

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side, or rear yard; a court, conforming with the provisions of this Section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- (A) An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 151.415(B).
- (B) An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet.

R-2 MULTI-FAMILY RESIDENCE DISTRICT

§151.420 PRINCIPAL PERMITTED USES

Same as the R-1 District, with the addition of multi-family (see definition) dwellings, apartments, and town houses. No building, use, structure, or land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses except as provided herein and in Section 151.320.

- (A) Any use permitted and as regulated in the R-1 District except as modified herein.
- (B) Multi-family dwellings, apartment hotels.
- (C) Non-commercial clubs and lodges.
- (D) Non-commercial recreation facilities.
- (E) Townhouse dwelling units.
- (F) All other uses as indicated in the District Use Index.
- (G) Subdivision of land for residential purposes is permitted. No subdivision of land for commercial or industrial is permitted.

§151.421 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the R-2 Multi-Family Residence District in Section 151.790 may be permitted in accordance with the provisions of Sections 151.780 through 151.789.

§151.422 ACCESSORY USES

Accessory uses, buildings or structures customarily incidental to any aforesaid principal use or Special Exception shall be permitted in conjunction with such use, including the following:

- (A) Fall-out shelter.
- (B) The accessory uses permitted and as regulated in the R-1 District except as modified herein.

- (C) Home occupations provided that not more than one-half (1/2) of the area of one (1) floor of the dwelling is devoted to such use.

§151.423 HEIGHT REGULATIONS

One-family or two-family dwellings shall not exceed two and one-half (2 ½) stories or thirty five (35) feet in height; multi-family dwellings or other principal structures shall not exceed a height of sixty (60) feet; and accessory structures shall not exceed two (2) stories or twenty-five (25) feet except as provided in Sections 151.811 through 151.812.

§151.424 AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Sections 151.810 through 151.822.

	MINIMUM LOT AREA	MINIMUM LOT AREA PER FAMILY	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH - EACH	MINIMUM REAR YARD DEPTH
	SQ. FEET	SQ. FEET	FEET	FEET	FEET	FEET
One & Two Family Dwellings (with public sewer & water)	6000**	N/A**	50**	20% of lot depth**	20% of lot width & 5' minimum**	15% of depth & 15' minimum**
1 Family	8,000*	8,000*	65*	50*	8*	30*
2 Family	10,000*	5,000*	80*	50*	10*	30*
One & Two Family Dwellings (with septic)	N/A**	N/A**	N/A**	N/A**	N/A**	N/A**
1 Family	1 acre*	8,000*	80*	50*	8*	30*
2 Family	1 acre*	5,000*	80*	50*	10*	30*
Multi-Family Dwelling (with public sewer & water)	6000**	N/A**	50**	20% of lot depth**	20% of lot width & 5' minimum**	20% of depth & 20' minimum**
1 & 1 ½ stories	12,000*	3,000*	80*	50*	10*	30*
(with septic)	1 acre*	3,000*	80*	50*	10*	30*
2 & 2 ½ stories (with public sewer and water)	12,000	3,000	100	50	12	30
(on septic)	1 acre	3,000	100	50	12	30

3 & 3 ½ stories (with public sewer and water)	12,000	3,000	120	50	14	35
(on septic)	1 acre	3,000	120	50	14	35
4 or more stories (with public sewer & water)	14,000	3,000	140	50	20***	40
(with septic)	1 acre	3,000	140	50	20	40
Other Principal Permitted Uses	20,000		150	50	20***	40

* Development standards for the unincorporated area.

** Development standards for the incorporated area.

***Two (2) feet for each story in excess of four (4) stories

§151.425 COURTS

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side, or rear yard, a court, conforming with the provisions of this Section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- (A) An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 151.425(B).
- (B) An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet.

RESIDENTIAL DISTRICTS, GENERAL REGULATIONS

§151.430 REAR DWELLINGS IN R-DISTRICT

In any R-District, no building in the rear of a principal building on the same lot shall be used for residential purposes.

§151.431 ACCESSORY USES IN R-DISTRICTS

- ✓(A) An accessory building may be erected detached from the principal building or may be erected as an integral part of the principal building, or it may be connected therewith by a breezeway or similar structure. No accessory building shall be erected in any required yard or court, except a rear yard, and shall not occupy more than thirty-five (35) percent of a required rear yard. Accessory buildings shall be a distance of at least six (6) feet from any dwelling situated on the same lot, unless an integral part thereof, and at least six (6) feet from all lot lines of adjoining lots which are within any R-District unless located more than fifty (50) feet from the front street line.
- (B) In any R-District, where a corner lot adjoins in the rear a lot fronting on the side street and located in any R-District, no part of an accessory building on such corner lot within twenty-five (25) feet of the common lot line shall be nearer a side street lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot; and in no case shall any part of such accessory building be nearer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory.
- (C) No accessory use or structure in any R-1 District, except an off-street parking area subject to the provisions of Sections 151.520 through 151.526, shall be permitted nearer to any front lot line than fifty (50) feet, unless such use or structure is contained within, or connected to, the principal building.
- (D) Except as provided in Sections 151.813 through 151.815, an accessory building, if not located in the rear yard shall be an integral part of, or connected with, the principal building to which it is accessory, and shall be so placed as to meet all yard and court requirements for a principal building of the same height and other dimensions as said accessory building. Where an accessory building is located more than fifty (50) feet from the front street line it may be located within three (30 feet of the side or rear lot lines.
- ✓(E) In any R-District no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal of main building.

§151.432 SIDE YARDS

There shall be a side yard on each side of all buildings in the R-District as specified in each district. The side yard on the street side of corner lot shall be six (6) feet more than the side yard required in each district for an interior lot.

§151.433 TRAFFIC VISIBILITY ACROSS CORNER LOTS

In any R-District on any corner lot, no fence, structure or planting shall be erected or maintained within twenty (20) feet of the corner (the point of intersection of the right-of-way lines) which interferes with traffic visibility across the corner.

(33) All other uses as indicated in the District Use Index.

(C) Public parking areas subject to the provisions of Sections 151.520 through 151.526.

(D) Commercial development unit projects in accordance with the provisions of Sections 151.730 through 151.755.

(E) Subdivision of land for non-residential and commercial purposes is permitted, but the subdivision of land for residential purposes or for industrial purposes is not permitted.

§151.441 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the C-1 Neighborhood Business District in Section 151.790 may be permitted in accordance with the provisions of Sections 151.780 through 151.789.

§151.442 ACCESSORY USES

Accessory uses, buildings or structures customarily incidental to any aforesaid principal use or Special Exception shall be permitted in accordance with the provisions of Sections 151.780 through 151.789, and as follows:

(A) Accessory uses permitted and as regulated in the R Districts. See Section 151.412.

(B) Accessory uses and structures customarily accessory and incidental to any of the foregoing permitted C-1 non-residential uses and including off-street parking facilities subject to the provisions of Sections 151.520 through 151.526.

§151.443 REQUIRED CONDITIONS

(A) All businesses, services or processing shall be conducted wholly within a completely enclosed building except for off-street parking; and such outdoor display or storage of vehicles, materials and equipment as may be authorized by the Board.

(B) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by any reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water-carried waste.

§151.444 HEIGHT REGULATIONS

No principal structure shall exceed four stories or forty-five (45) feet and no accessory structure shall exceed the height of the principal structure except as provided in Sections 151.811 through 151.812.

§151.445 LOT AREA, FRONTAGE, AND YARD REGULATIONS

The following minimum requirements shall apply except as provided in Sections 151.810 through 151.822.

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	None	None; except when adjoining an R- District, then not less than five (5) feet	10% of the depth of lot.
Residential	Same as required in the R-1 District				

§151.446 COURTS

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side, or rear yard, a court conforming with the provisions of this section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- (A) An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 151.446(B).
- (B) An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet.

C-2 COMMUNITY BUSINESS DISTRICT

§151.450 PRINCIPAL PERMITTED USES

A more intensive retail use than the C-1 District. For example, auto parts, gas stations, carpet store, funeral home, furniture store, hotel, liquor store, motel, restaurants, toy store, bank, vehicle repair and service. Outside accessory uses permitted which are clearly subordinate to the primary enclosed business. No building, use, structure or land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses, except as provided herein and in Section 151.320.

(A) Any use permitted and as regulated in the C-1 Districts, except as modified herein.

(B) Retail and service uses as follows:

- (1) Ambulance service.
- (2) Amusement establishments, including bowling alleys, pool halls, dance halls, skating rinks, and other similar places of recreation.
- (3) Art and school supply stores.
- (4) Auction rooms.
- (5) Auto accessory stores.
- (6) Automobile wash.
- (7) Automotive service station.
- (8) Bicycle stores, including rental and repair.
- (9) Catering establishments.
- (10) Carpet, rug, and linoleum stores.
- (11) Clothing and costume rental shops.
- (12) Currency exchanges.
- (13) Department stores.

- (14) Electrical and household appliance stores, including computer, radio and television sales.
- (15) Employment agencies.
- (16) Exterminating shops.
- (17) Firearm, ammo sales and repair.
- (18) Flea market.
- (19) Funeral home.
- (20) Furniture stores, including upholstering when conducted as part of the retail operations and secondary to the principal use.
- (21) Hotel.
- (22) Interior decorating shops, including upholstering and making of draperies, slip covers, and other similar articles, when conducted as part of the retail operations and secondary to the principal use.
- (23) Laundries other than self-service type.
- (24) Liquor stores, package goods only.
- (25) Machinery sales rooms, with no repair or servicing, provided that storage and display of machinery, except of household appliances and office machines such as typewriters, shall be restricted to new floor samples.
- (26) Motel.
- (27) Musical instrument stores, including minor repairs.
- (28) Office supplies stores, including minor repairs.
- (29) Orthopedic, medical, and surgical appliance stores, not including the assembly or manufacture of such articles.
- (30) Park, playground, game court.
- (31) Pawn shops.

- (32) Pet shops.
- (33) Photograph developing and processing shops.
- (34) Physical culture and health services, including gymnasiums, swimming pools, reducing salons, masseurs, public baths.
- (35) Plumbing items and equipment.
- (36) Pool, swimming, public.
- (37) Printing establishments
- (38) Professional activities.
- (39) Computer, radio and television service and repair shops.
- (40) Restaurant, hotel and bar fixture stores.
- (41) Restaurants, including live entertainment and dancing and the serving of liquor in conjunction therewith.
- (42) Second hand stores and rummage shops.
- (43) Shoe stores.
- (44) Sporting goods stores.
- (45) Taxidermists shops.
- (46) Ticket agencies, amusement.
- (47) Toy shop.
- (48) Travel bureaus and transportation ticket offices.
- (49) Variety stores.
- (50) Wearing apparel shops.

(51) All other uses as indicated in the District Use Index.

- (C) Business and/or professional offices and office buildings.
- (D) Banks, including drive-in banks, savings and loan associations.
- (E) Motor vehicle service station and garage, display, hire, sales and general automobile repair not including major body or fender repairs.
- (F) Drive-in eating and drinking places provided the principal building is distant not less than one hundred (100) feet from any R-District.
- (G) Night clubs and theaters, but not within one hundred (100) feet of any R-District and subject to all applicable regulations and such permits as may be required by law.
- (H) Trade or business schools provided machinery which is used for instruction purposes is not objectionable due to noise, fumes, smoke, odor, or vibration; photographic studios, dancing studios, radio, and telecasting studios.
- (I) Commercial recreational facility.
- (J) Shopping center.

§151.451 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the C-2 Community Business District in Section 151.790 may be permitted in accordance with the provisions of Sections 151.780 through 151.789.

§151.452 ACCESSORY USES

Accessory uses, buildings, or structure customarily incidental to any aforesaid principal use or Special Exception shall be permitted in conjunction with such use.

- (A) Fall-out shelter.
- (B) Accessory uses and structures as permitted and as regulated in the R-2 and C-1 Districts, as well as accessory uses and structures not otherwise prohibited customarily accessory and incidental to any of the foregoing permitted C-2 uses.

§151.453 REQUIRED CONDITIONS

- (A) All conditions as specified for the C-1 District, except for new merchandise in the case of art and antique shops.

§151.454 HEIGHT REGULATIONS

No principal structure shall exceed four (4) stories or forty-five (45) feet and no accessory structure shall exceed the height of the principal structure except as provided in Sections 151.811-151.812.

§151.455 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Sections 151.810 through 151.822.

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	15; except when adjoining an R- District, then not less than Forty-five (45) feet	None; except when adjoining an R-District, then not less than five (5) feet	10% of the depth of lot.
Residential Uses	Same as required in the R-2 District				

§151.456 GARAGES AND PARKING AREAS DISTANCE REQUIREMENTS

- (A) No motor vehicles service station, parking lot for twenty-five (25) or more motor vehicles, or parking garage or motor vehicle repair shop, shall have an entrance or exit for vehicles within two hundred (200) feet along the same side of a street of any school, public playground, church, hospital, public library or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.
- (B) No motor vehicles filling station or public garage shall be permitted where any oil draining pit or visible appliance for any such purpose other than filling caps, is located within ten (10) feet of any street lot line or within twenty-five (25) feet of any R-District, except where such appliance or pit is within an enclosed building.

§151.457 COURTS

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side or rear yard, a court, conforming with the provisions of this Section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- (A) An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 151.456.
- (B) An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet.

C-3 GENERAL BUSINESS DISTRICT

§151.460 PRINCIPAL PERMITTED USES

The C-3 District provides for an area zoned for intensive business retail use. Generally, businesses in this district have high vehicular and pedestrian traffic. Outside display of goods and articles is permitted. Typically businesses in this district will have multiple products and services. No building, use, structure or land shall be erected, altered, enlarged or used which is arranged or designed for other than one of the following uses, except as provided herein and in Section 151.320.

- (A) Any use permitted and as regulated in the C-2 District except as modified herein and except that no dwellings are permitted.
- (B) The following uses provide that buildings shall be at least fifty (50) feet from any R-District and shall have no openings adjoining any R-District other than stationary windows and fire escapes:
 - (1) Automobiles, trucks, trailers, farm implements, for sale, display, hire, major or minor repair including sales, lots, used car lots, trailer lots, body and fender shops, paint shops and bus storage.
 - (2) Battery and tire service stations.
 - (3) Building materials, sales.
 - (4) Commercial greenhouses.
 - (5) Contractor or construction shops, such as: building, cement, electrical, roofing, refrigeration, heating, and ventilating, masonry, painting, plumbing, air-conditioning.
 - (6) Dry-cleaning establishments.
 - (7) Garages, model display and sales.
 - (8) Linen, towel, diaper, and other similar supply service.
 - (9) Machinery sales.
 - (10) Manufactured or Mobile Home Sales

- (11) Monument sales.
- (12) Motorcycle sales, including servicing and repair.
- (13) Repair of household or office machinery or equipment.
- (14) Trailers for motor vehicles, sales and rentals, not including house trailers or mobile homes.

(C) Production and processing, limited to the following uses or products:

- (1) Advertising displays.
- (2) Bakeries, wholesale.
- (3) Books, hand binding and tooling.
- (4) Carpenter shops for custom woodworking and custom furniture making.
- (5) Clothing, custom manufacturing and alterations, for retail only.
- (6) Cosmetics, drugs, and perfumes.
- (7) Food processing, packaging and distributing (except meat and fish, sauerkraut, vinegar, yeast and the rendering or refinishing of fats or oils).
- (8) Garages and parking lots, other than accessory, for the storage of motor vehicles (but not including truck trailers) and subject to the provisions of Sections 151.520 through 151.526.
- (9) Glass cutting and glazing.
- (10) Laboratories, medical, dental, research, experimental, and testing, provided there is no danger from fire or explosion nor of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences.
- (11) Light sheet metal products.
- (12) Optical lenses.
- (13) Packing and crating.

- (14) Printing, commercial, including engraving and photo engraving.
 - (15) Soldering and welding.
 - (16) Tool, die and pattern making.
 - (17) Wholesale offices and storerooms with storage.
 - (18) All other uses as indicated in the District Use Index.
- (D) Animal hospitals, kennels, display and housing of boarding of pets and other domestic animals, provided that any enclosure or building in which animals are kept shall be at least one hundred (100) feet from any R-district and at least fifty (50) feet from any other C-District. Exercise runs shall be enclosed on four (4) sides by pierced well-maintained fence or wall at least six (6) feet in height.
 - (E) Bottling of soft drinks or milk and distribution stations therefore, providing a building uses for such processing and/or distribution shall be at least one hundred (100) feet from any R-District.
 - (F) Advertising signs subject to the provisions of Section 151.540.
 - (G) Warehouses for the storage of merchandise and materials, trucking or motor freight stations or terminals, carting, expressing, or hauling establishments, contractor and building material yards, providing no such uses are conducted within two hundred (200) feet of any R-District.

§151.461 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the C-3 General Business District in Section 151.790 may be permitted in accordance with the provisions of Sections 151.780 through 151.789.

§151.462 ACCESSORY USES

Accessory uses, buildings, or structures customarily incidental to any aforesaid principal use or special exception shall be permitted in conjunction with such use, including the following:

- (A) Fall-out shelter.

- (B) Accessory uses and structures as permitted and as regulated in the C-2 District and such other accessory uses and structures not otherwise prohibited that are customarily accessory and incidental to any of the foregoing permitted C-3 uses.

§151.463 REQUIRED CONDITIONS

Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse, matter, or water-carried waste.

- (A) All businesses, services or processing shall be conducted wholly within a completely enclosed building except for incidental display of merchandise, sale of motor vehicles, fuel, lubricants, and other fluids at service stations, loading and unloading operations, parking and the outdoor display or storage of vehicles, materials and equipment
- (B) No building customarily used for night operation, such as a bakery or milk bottling and distribution station, shall have any opening, other than stationary windows or required fire exits, within one hundred (100) feet of any A or R- District, and any space used for loading or unloading commercial vehicles in connection with such an operation shall not be within one hundred (100) feet of any A or R-District.

§151.464 PROHIBITED USES

- (A) Schools, hospitals, clinics, and other institutions for human care; provided, however, that any of the aforesaid uses legally existing in the C-3 District at the time of the adoption of this Ordinance or any amendment thereof, shall not be classified as a non-conforming use.
- (B) No use shall be permitted or authorized to be established or maintained which, when conducted under adequate conditions and safeguards, in compliance with the provisions of this Ordinance and any additional conditions or requirements prescribed by the Commission is, or may become, hazardous, noxious, or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, heat frequency, refuse matter or water-carried waste.

§151.465 HEIGHT REGULATIONS

No principal structure shall exceed five (5) stories or sixty (60) feet and no accessory structure shall exceed the height of the principal structure except as provided in Sections 151.811 – 151.812.

§151.466 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall apply as provided in Sections 151.810 through 151.822.

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	45	None; except when adjoining an A or R-District, then not less than fifty (50) feet	35
Residential Uses	Not permitted				

INDUSTRIAL DISTRICTS

M-1 LIGHT INDUSTRIAL DISTRICT

§151.470 PRINCIPAL PERMITTED USES

Typically, the production, manufacturing, processing or assembly of items taking place all under roof and within an enclosed structure. No outside storage is permitted and the operation is to have low noise and emissions. No buildings, use, structure or land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses, except as provided herein and in Section 151.320.

- (A) Any use permitted and as regulated in the C-3 District except as herein modified, except all residential uses are prohibited.
- (B) The rendering of service or the manufacturing, compounding, processing, packaging and assembling of products such as:
 - (1) Beverages, non-alcoholic.
 - (2) Blacksmith shop.
 - (3) Boat-building and repair of pleasure craft and other small craft, but not including shipbuilding or ship repair.
 - (4) Bottling works, beverage.
 - (5) Buses, bus bodies.
 - (6) Cameras and other photographic equipment and supplies.
 - (7) Canvas and canvas products.
 - (8) Ceramic products such as pottery and small glazed tile.
 - (9) Electric appliances such as lighting fixtures, items, fans, toasters and electric toys.
 - (10) Electrical equipment assembly such as home radio and television receivers and home movie equipment, but not including electrical machinery.

- (11) Electrical supplies, manufacturing and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.
- (12) Electronic equipment, such as computers, GPS units.
- (13) Fur goods, not including tanning or dyeing.
- (14) Glass products from previously manufactured glass.
- (15) Hosiery.
- (16) Ice, dry, and natural.
- (17) Ink mixing and packaging and inked ribbons.
- (18) Insecticides.
- (19) Leather products, including shoes and machine belting.
- (20) Luggage.
- (21) Meat products.
- (22) Metal finishing, plating, grinding, sharpening, polishing, cleaning, rustproofing and heat treatment.
- (23) Metal stamping and extrusion of small products such as costume jewelry, pins, and needles, razor blades, bottle caps, buttons and kitchen utensils.
- (24) Mobile and Manufactured home assembly.
- (25) Musical instruments.
- (26) Orthopedic and medical appliances such as artificial limbs, braces, supporters, and stretchers.
- (27) Paper products, small, such as envelopes and stationery, bags, boxes, tubes, and wallpaper printing.
- (28) Perfumes and perfumed soaps, compounding only.
- (29) Pharmaceutical products, compounding only.

- (30) Poultry and rabbits, slaughtering and retail sale for domestic and family use but not for hotel, restaurant or other commercial use.
- (31) Precision instruments such as optical, medical and drafting.
- (32) Products from finished materials, including plastic, bone, cork, feathers, felt, fiber, paper, fur, glass, hair, horn, leather, precious and semiprecious stones, rubber, shell or yarn.
- (33) Rubber products, small and synthetic treated fabrics, (excluding all rubber and synthetic processing) such as washers, gloves, footwear, bathing caps, and atomizers.
- (34) Silverware, plate and sterling.
- (35) Soap, and detergents, packaging only.
- (36) Sporting and athletic equipment such as balls, baskets, cues, gloves, bats, racquets and rods.
- (37) Statuary, mannequining, figurines, and religious and church art goods, excluding foundry operations.
- (38) Textiles, including spinning, weaving, manufacturing, dyeing, printing, knit goods, yarn, thread and cordage, but not including textile bleaching.
- (39) Tobacco curing and manufacturing and tobacco products.
- (40) Tools and hardware such as bolts, nuts, and screws, doorknobs, drills, hand tools and cutlery, hinges, and house hardware, locks, non-ferrous metal castings and plumbing appliances.
- (41) Toys.
- (42) Upholstering (bulk), including mattress manufacturing, rebuilding, and renovating.
- (43) Vehicles, (children's) such as bicycles, scooters, wagons and baby carriages.
- (44) Wood products, such as furniture boxes, crates, baskets, and pencils and cooperage works.

(45) All other uses as indicated in the District Use Index.

- (C) Any other business or industry which is determined by the Commission to be of the same general character as the above principal permitted uses, but not including any use which is first permitted or which is not permitted in the M-2 District except as modified herein.
- (D) Any retail business or service establishment determined by the Commission to have been clearly demonstrated as necessary to serve the needs of the industrial area, including restaurants, cocktail lounges, motels, banks and business or professional offices.
- (E) Industrial park.

§151.471 SPECIAL EXCEPTIONS

- (A) Those uses listed as Special Exceptions for the M-1 Light Industrial District in Section 151.790 may be permitted in accordance with the provisions of Sections 151.780 through 151.789.

§151.472 ACCESSORY USES

Accessory uses, buildings or structures customarily incidental to any aforesaid principal use or special exception shall be permitted in conjunction with such use.

- (A) Fall-out shelter.

§151.473 REQUIRED CONDITIONS

Processes and equipment employed in goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried waste.

§151.474 PROHIBITED USES

- (A) Hotels, motels, residential uses or dwellings, mobile home parks, schools, hospital, clinics, and other institutions for human care; provided, however, that any of the aforesaid uses legally existing in this M-1 District at the time of the adoption of this Ordinance or any amendment thereto, shall not be classed as a non-conforming use.
- (B) No use shall be permitted or authorized to be established or maintained which, when conducted under adequate conditions and safeguards, in compliance with

the provisions of this Ordinance and any additional conditions or requirements prescribed by the Commission is, or may become hazardous, noxious, or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, heat frequency, refuse matter or water-carried waste.

§151.475 HEIGHT REGULATIONS

No structure shall exceed three (3) stories or fifty (50) feet except as provided in Sections 151.811 through 151.812.

§151.476 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Sections 151.810 through 151.822.

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	55	None; except when adjoining an A or R- District, then not less than fifty (50) feet	40
Residential Uses	Prohibited				

M-2 GENERAL INDUSTRIAL DISTRICT

§151.480 PRINCIPAL PERMITTED USES

This district is one that allows for both the building(s) and open area(s) for the manufacturing of products. For example, taking raw materials that are stored outside and making a product within the building. No building, structure or land shall be erected, altered, enlarged or used which is arranged or designed for other than one of the following uses, except as provided herein and in Section 151.320.

- (A) Any use permitted and as regulated in the M-1 District except as modified herein.
- (B) Provide no part of a building occupied by such uses shall have any opening other than stationary windows or required fire exits within one hundred (100) feet of any A or R-Districts.
 - (1) Blacksmith, welding or other metal working shop, excluding punch presses over twenty (20) tons rated capacity, drop hammers and other noise-producing machine-operated tools; machine shops.
 - (2) Foundry, casting lightweight nonferrous metals, or electric foundry not causing noxious fumes or odor.
 - (3) Bag, carpet, rag cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.
 - (4) Ice manufacturing and cold storage plant, creamery and bottling plant.
- (C) The following uses when located not less than two hundred (200) feet from any A or R-District.
 - (1) Inflammable liquids, underground storage only, not to exceed twenty five thousand (25,000) gallons.
 - (2) Building material sales yards including concrete mixing; lumberyards including millwork, open yards for storage, sale of feed and/or fuel and contractor's equipment storage.
- (D) The following uses are permitted when located not less than three hundred (300) feet from any A or R-District, and not less than one hundred (100) feet from any other district.

- (1) Acetylene manufacturing in excess of fifteen (15) pounds pressure per square inch.
- (2) Acid manufacture.
- (3) Asbestos manufacturing.
- (4) Automobile assembly.
- (5) Automobile wrecking.
- (6) Bleaching, cleaning and dyeing plant of large-scale production.
- (7) Boiler shops, machine shops, structural steel fabricating shops, railway car or locomotive shops, including repair, metal working shops employing reciprocating hammers or presser over twenty (20) tons rated capacity.
- (8) Candle manufacturing.
- (9) Charcoal and fuel briquettes.
- (10) Chemicals, including carbide, caustic soda, cleaning and polishing preparations, exterminating agents, hydrogen and oxygen, industrial alcohol, nitrating of cotton or other materials, nitrates (manufactured and natural) of an explosive nature, potash, plastic materials and synthetic resins.
- (11) Coal, coke, and tar products, including gas manufacturing.
- (12) Coal yards.
- (13) Dextrin, starch, or glucose manufacturing.
- (14) Disinfectant, insecticide or poison manufacturing.
- (15) Dye and dyestuffs manufacture
- (16) Electric central station power and steam generating plants.
- (17) Enameling, lacquering, or japanning.
- (18) Film, photographic.

- (19) Flour, feed, and grain, milling and processing.
- (20) Forge or foundry works
- (21) Gas – generation or storage for illumination or heating.
- (22) Gelatin, glue and size, animal.
- (23) Grain drying or poultry feed manufacturing from refuse, mash or grain.
- (24) Hair or hair products manufacturing.
- (25) Ink manufacturing.
- (26) Lime or lime products manufacturing.
- (27) Linoleum and oilcloth.
- (28) Linoleum and oilcloth or oiled goods manufacturing.
- (29) Magnesium foundries.
- (30) Meatpacking; but not including stockyards or slaughter houses.
- (31) Metal and metal ores (except precious and rare metals), reduction, refining, smelting and alloying.
- (32) Paint, lacquer, shellac, varnishes, linseed oil and turpentine, enamel.
- (33) Paper and pulp manufacturing.
- (34) Perfume manufacturing.
- (35) Plaster manufacturing.
- (36) Poultry, slaughterhouse, including packing and storage for wholesale.
- (37) Radium extraction.
- (38) Salvage yard.
- (39) Sandblasting or cutting.

- (40) Sawmill, the manufacture or excelsior, wood fiber or sawdust products.
- (41) Soaps, including fat and oil rendering.
- (42) Starch.
- (43) Steam power plants.
- (44) Stone and monument works employing power-drive tools.
- (45) Storage, drying, cleaning of iron, junk, rags, glass, cloth, paper or clipping, including sorting, refining, baling, wood pulling and scouring.
- (46) Sugar refining.
- (47) Tar or asphalt roofing or waterproofing manufacturing.
- (48) Tar distillation or manufacturing.
- (49) Wire or rod drawing – nut, screw, or bolt manufacturing.
- (50) Wood pulp and fiber, reduction and processing, including paper mill operation.
- (51) All other uses as indicated in the District Use Index.

§151.481 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the M-2 General Industrial District in Section 151.790 may be permitted in accordance with the provisions of Sections 151.780 through 151.789.

§151.482 ACCESSORY USES

Accessory uses, buildings, or structures customarily incidental to any aforesaid principal use or special exception shall be permitted in conjunction with such use.

§151.483 REQUIRED CONDITION

- (A) Any use may be conducted in the M-2 District within or without a building or enclosure, subject only to distance requirements where applicable.
- (B) All salvage yards shall be enclosed by a well maintained solid fence or wall, which will

effectively conceal such yard from adjoining property, streets and highways, but in any case, not less than six (6) feet high.

§151.484 PROHIBITED USES

Same as specified in the M-1 District.

§151.485 HEIGHT REGULATIONS

Within two hundred (200) feet of any A or R-District, no structure shall exceed three (3) stories or fifty (50) feet in height, and no structure in any case shall exceed in height the distance measured to the center line of any adjoining street; except as provided in Sections 151.811 through 151.812.

§151.486 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

The following minimum requirements shall apply.

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	55	None; except when adjoining an A or R- District, then not less than fifty (50) feet	1 story, 40 ft.; 2 stories, 50 ft.; 3 stories, 60 ft.; Five (5) feet more each additional story.
Dwellings or other residential uses are not permitted					

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AZ -AIRPORT ZONING OVERLAY DISTRICT

This subchapter shall be known and may be cited as the Airport Zoning Overlay District of the Town.

§151.490 AUTHORITY.

This subchapter is adopted pursuant to the authority conferred by I.C. 8-22-3-14.

§151.491 POLICY.

- (A) It is hereby found that an airport hazard endangers the lives and property of users of the Hagerstown Airport, and property or occupants of land in its vicinity. Accordingly, it is declared:
- (1) That the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Hagerstown Airport;
 - (2) That it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards be prevented; and
 - (3) That the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the zoning power.
- (B) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the Town may raise and expend public funds and acquire land or interests in land.

§151.492 AIRPORT ZONING DISTRICT ESTABLISHED.

The Airport Zoning (AZ) Overlay District shall include all zones as defined in this subchapter and indicated on the Zoning Map, which map dated 8-22-1974, and as amended hereby is a part of this subchapter and incorporated herein by reference. All land so defined and indicated is hereby zoned and classified as the Airport Zoning Overlay District.

§151.493 CONFLICTING REGULATIONS.

Where there exists a conflict between any of the regulations or limitations prescribed in this subchapter and any other regulations applicable to the same area, whether the conflicts be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitations or requirement shall govern and prevail.

§151.494 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“AIRCRAFT” Any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

“AIRPORT” The Hagerstown Airport.

“AIRPORT ELEVATION” The highest point of an airport’s usable landing area measured in feet from mean sea level, and established to be 1,020 feet above mean sea level (MSL).

“AIRPORT HAZARD ”Any structure, or object of natural growth, located on or in the vicinity of a public airport, or any use of land near the airport, which obstructs the airspace required for the flight of aircraft in landing or take-off at such airport or is otherwise hazardous to the landing or take-off of aircraft.

“GEOGRAPHICAL REFERENCE POINT” The airport reference point (ARP) established as a point having equal relationship to all existing and proposed landing and take-off points, as defined in AC 140/5300-5, and having latitude 39°53”N, longitude 85°10”W.

“HEIGHT ”For the purpose of determining the height limits in all zones set forth and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise stated.

“NONCONFORMING USE” Any pre-existing building, object of natural growth or use of land which is consistent with the provisions of this subchapter or an amendment hereto.

“PRIMARY SURFACE” A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the Primary Surface extend 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the Primary Surface ends at each end of that runway. The width of the Primary Surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of the runway. The elevation of any point on the Primary Surface is the same as the elevation of the nearest point on the runway centerline.

“RUNWAY” A defined area on an airport prepared for landing and take-off of aircraft along its length.

“RUNWAY, UTILITY” A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500-pounds’ maximum gross weight and less.

“**RUNWAY, VISUAL**” A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure, and no instrument designation indicated on an FAA approved airport layout plan, a military service’s approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

“**STRUCTURE**” An object constructed or installed by humans, including, but without limitation, buildings, towers, smokestacks, earth formation, overhead transmission lines, electronic transmission and receiving towers, and antenna.

“**TREE**” Any object of natural growth.

“**ZONES**” The zones established in this subchapter is imaginary horizontal or inclined surfaces, in compliance with FAR Part 77, I.C. 8-21-7, as amended.

§151.495 AIRPORT ZONES AND ZONE HEIGHT LIMITATIONS.

(A) **Airport zones.** In order to carry out the provisions of this subchapter, there are hereby created and established zones which include all of the land lying within the approach zones, horizontal zone, boundary zone, noise sensitive zones, and navigational zones, as they apply to the airport. The zones are shown on the zone map in the jurisdictional area as amended by this subchapter, which is attached to this subchapter and made a part hereof, the original of which is now on file in the office of the Clerk-Treasure of the Town. The various zones are hereby established and defined as follows.

- (1) **Utility Runway Visual Approach Zone.** The inner edge of this approach zone coincides with the width of the primary surface and is 200 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway,
- (2) **Boundary Zone.** The Boundary Zone is established as the area beneath the inclined boundary surface. The area commences at the airport boundary and extends outward therefrom a horizontal distance of 2,000 feet. See § 2 of Appendix A following this Section.
- (3) **Navigational Zone.** The Navigational Zone is established by drawing circle of three and one-half nautical miles radius from the geographical reference point of the airport. See § 2 of Appendix A following this Section.
- (4) **Noise Sensitive Zone.** These zones are established as the area lying 1,500 feet on either side of the extended centerline of runways for a distance of one nautical

mile from the boundary of the airport. There are no slope or height limitations. See § 3 of Appendix A following this Section.

- (B) **Zoning height limitations.** Except as otherwise provided in this subchapter, no structure or tree shall be erected, altered, allowed to grow, or be maintained in any zone created by this subchapter to a height in excess of the applicable height limit herein established for the zone. An area located in more than one of the zones is considered to be only in the zone with the more restrictive height or land use limitation. The applicable zone height limitations are hereby established and described as follows.
- (1) **Utility Runway Visual Approach Zone.** Slope upward 20 feet horizontally for each foot vertically, beginning at the end of and the same elevations as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
 - (2) **Boundary Zone.** Slopes upward and outward 20 feet horizontally for each one foot vertically, beginning at the airport boundary and at the same elevation as the nearest airport runway.
 - (3) **Horizontal Zone.** One hundred and fifty feet above the airport elevation surface or a height of 1,170 feet above mean sea level
 - (4) **Navigational Zone.** The height limitation is established by a horizontal surface 100 feet above the airport elevation or a height of 1,120 feet above mean sea level.
 - (5) **Excepted height limitations.** Nothing in this subchapter shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a maximum height up to 100 feet above the surface of the land, provided, however, that the maximum height does not conflict with any of the approach, boundary, and zone limitations of the subchapter.

§151.496 USES PROHIBITED AND PERMITTED.

(A) **Uses prohibited.**

- (1) **Communication and visibility.** No use may be made of land within any zone established by this subchapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between lights and others, result in glare in the eyes of pilots using the airport, impair visibility in

the vicinity of the airport or otherwise in any way create a hazard or endanger the landing, take-off, or maneuvering of aircraft intending to use the airport, except as otherwise provided herein.

- (2) **Places of public assembly.** No structures, buildings, or premises used for public assembly, including school, libraries, churches, hospitals, child care institutions, stadiums, theaters, parks, sports arenas, museums, or similar facilities shall be erected, relocated, or converted for use within the horizontal approach, boundary, navigational, transitional zones established by this subchapter except as otherwise provided herein.
- (3) **Residential uses.** No one-family, one-family, or multi-family residential uses, including mobile home parks, shall be allowed within the horizontal approach and boundary zones established by the subchapter, except when the use is accessory to agricultural or other principal use of land, except as otherwise provided herein, or as permitted by the Board of Zoning Appeals.

(B) Uses permitted.

The following uses are permitted, provided, however, that they meet other requirements of this subchapter.

- (1) Agricultural uses, utility and service system buildings and lands, cemetery or crematory, low density park, picnic, and recreational facilities, improvement or expansion of the airport or heliport, automobile and farm equipment sales, repair, and services, parking lots; and
- (2) Accessory buildings and uses.

(C) Conditional uses.

The following uses are permitted as conditional uses when authorized by the Board of Zoning Appeals. The conditional uses shall be subject to the requirements the Board of Zoning Appeals feels necessary to further the purpose of the Airport Zoning Overlay District.

- (1) Quarrying and mining of natural resources, sanitary landfill and other types of landfill, public or private golf courses and driving ranges, industrial parks and light industrial uses, commercial greenhouses, plant nurseries, hotel, motel, sale barns for livestock resale, business and retail uses, restaurants and other service facilities, police or fire stations; and
- (2) Elevated water storage tanks, elevated transmission and communication lines.

(D) Nonconforming uses.

- (1) **Regulations not retroactive.** The regulations prescribed by this subchapter shall not be construed to require the removal, lowering, or other changes or alteration of any structure not conforming to the regulations as of the effective date of this subchapter, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure; the construction or alteration of which was begun prior to the effective date of this subchapter, and is diligently prosecuted. Provided nevertheless, that existing trees exceeding the limitations of this subchapter shall be subject to trimming or removal at the expense of the town, to meet the requirements this subchapter with any subsequent trimming to removal to be the expense of the owner of the property.
- (2) **Marking and lighting.** Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager to indicate the operators of the aircraft in the vicinity of the airport, the presence of the airport hazards. The markers and lights shall be installed, operated and maintained at the expense of the Town.

§151.497 FUTURE USES.

No material change shall be made in the use of the land and so structure shall be erected, altered, tree planted, or otherwise established in any zone hereby created in violation of this subchapter. Any trees not at the passage of this subchapter, in nonconforming use, shall be hereinafter trimmed and maintained by the owner of the property on which the trees are located.

§151.498 VARIANCES.

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his or her property not in accordance with the regulations prescribed in this subchapter, may apply to the Board of Zoning Appeals for a variance from the regulations. The variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship, and relief granted would be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this subchapter.

§151.499 HAZARD MARKING AND LIGHTING.

Any variance granted may, if the action is deemed advisable to effectuate the purpose of this subchapter and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Superintendent of Utilities, at the owner's expense, to install, operate, and maintain thereon the markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

§151.500 ENFORCEMENT.

It shall be the duty of the Building Commissioner to administer and enforce the regulations prescribed herein. Applications for variance shall be made to the Board of Zoning Appeals.

SPECIAL PROVISIONS OF THIS ORDINANCE

PERFORMANCE STANDARDS

§151.510 GENERAL REQUIREMENTS

No land or structure, in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, or other hazard, including potential hazards, noise or vibration; smoke, dust, odor, or other form of air pollution, heat, cold, dampness, electrical, or other substance, condition or element (referred to herein as dangerous or objectionable elements); in such manner or in such amount as to adversely affect the adjoining premises or surrounding area; provided that any use permitted or not expressly prohibited by this Ordinance may be undertaken and maintained if it conforms to the provisions of this Section limiting dangerous and objectionable elements provided, however, this section shall not apply to customary and reasonable agriculture uses.

OFF-STREET & OFF SITE LOADING AND PARKING REGULATIONS

§151.520 INTENT.

- (A) Accessory off-street parking and loading facilities shall be provided and maintained for all buildings, structures, or premises used in whole or in part for purposes permitted by this Ordinance in accordance with the provisions herein.
- (B) The regulations of this chapter are designed to alleviate or prevent congestion of the public streets by establishing minimum requirements for on –site storage of motor vehicles in accordance with the use to which the property is occupied.

§151.521 SCOPE.

- (A) No use lawfully established prior to the effective date of this chapter shall be required to provide and maintain the parking and loading requirements herein; however, off-street parking and loading spaces required by any previous ordinances adopted pursuant to the state planning statutes shall be continued and maintained.
- (B) For any nonconforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, re-established, or repaired, off-street parking and loading facilities equivalent to those maintained at the time of the damage or partial destruction shall be restored and continued in operation; however, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this chapter for equivalent new uses.

- (C) When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity, or other unit of measurement, parking and loading facilities as required herein shall be provided for the increase in intensity of use.
- (D) Whenever the existing use of a building, structure, or premises shall hereafter be changed or converted to a new use permitted by this chapter, parking and loading facilities shall be provided as required for the new use.
- (E) Accessory off-street parking or loading facilities in existence on the effective date of this chapter shall not hereafter be reduced below, or if already less than, shall not be further reduced below the requirements for a similar new use under the provisions of this chapter.
- (F) Nothing in this chapter shall be deemed to prevent the voluntary establishment of accessory off-street parking or loading facilities to serve any existing use of land or building, provided all regulations herein governing the location, design, and operation of the facilities are adhered to.
- (G) Accessory off-street parking or loading spaces shall be provided on the same lot as the use served, except as otherwise provided in this chapter, and may be situated as one or more individual areas.
- (H) Accessory off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each use, and provided that all regulations governing location of accessory parking spaces, in relation to the use served are adhered to. Further, no parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Board of Zoning Appeals.
- (I) Accessory off-street parking or loading facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter.
- (J) Accessory off-street parking facilities required herein shall be utilized solely for the parking of passenger automobiles or light trucks of less than one-ton capacity, of patrons, occupants, or employees of specified uses. The parking facilities shall not be used for the storage, display, sale, repair, dismantling, or wrecking of any vehicle equipment, or material.
- (K) Required off-street loading and unloading spaces shall not be construed as being part of the required off-street parking spaces.

- (L) Loading and unloading berths shall not be required for business uses and industrial uses, which demonstrably do not receive or transmit goods or wares by truck delivery.

§151.523 GENERAL PROVISIONS.

- (A) Each required off-street parking space shall be at least nine feet in width and at least 20 feet in length, exclusive of access drives or aisles, ramps, columns, or office or work areas. The space shall have adequate vertical clearance. For parallel parking, the length of the parking space shall be increased to 24 feet.
- (B) Each required off-street loading space shall be of a size not less than that required for and off-street parking space but scaled larger to delivery vehicles expected to be used, logically and conveniently located for bulk pickups and deliveries, and accessible to these vehicles when required off-street parking spaces are filled. However, for industrial uses the off-street area required for the receipt or distribution by vehicles of materials or merchandise is held to be a 12-foot by 45-foot loading space with a 14-foot height clearance. Further, if more than one berth is provided the minimum dimensions are held to be ten feet by 45 feet with a 14-foot height clearance.
- (C) Except on lots occupied by one-, two-, and multi-family dwellings, each off-street parking space shall open directly upon an aisle or driveway at least 12 feet wide or the additional width and design in accordance with the following table, as to provide safe and efficient means of vehicular access to the parking space.

- (1) The aisle or driveway shall be unobstructed and allow for the passage of emergency vehicles at all times.

<i>Parking Angle (in Degrees)</i>	<i>Aisle Width (In Feet)</i>
45°	14 feet
60°	18 feet
90°	24 feet

- (2) Angle shall be measured between centerline of parking and centerline of aisle.

- (D) All off-street parking or loading facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
- (E) In determining the minimum required number of off-street parking or loading spaces, the following instructions shall be applicable in the computations.

- (1) If the unit of measurement is any fraction of the unit specified in relation to the number of spaces to be provided, the fraction shall be considered as being the next unit and be counted as requiring one space.
 - (2) In sports arenas, churches, and other places of assembly in which patrons occupy benches, pews, or other similar seating facilities, each 22 inches of seating shall be counted as one seat for the purpose of determining requirements hereunder.
- (F) Accessory off-street parking and loading areas shall be provided to the rear of the required front building setback line, except as specified otherwise by this chapter. When permitted within required setback distances, a landscape screen shall be provided along the property line.

§151.524 MINIMUM PARKING REQUIREMENTS.

For minimum parking space numbers, see Table 1 that follows this Section.

- (A) For uses not specified in this chapter, or in instances when the requirements for an adequate number of spaces is unclear or not specified in another part of this chapter for conditional uses, shopping center plan, and the like, the number of parking spaces shall be determined by the Building Commissioner, on the basis of similar requirements, the number of persons served or employed, and the capability of adequately serving the visiting public. The determination may be appealed to the Board of Zoning Appeals.
- (B) In case of conflict between the provisions of this section, the higher requirement shall govern.
- (C) For purposes of determining off-street parking requirements under this section, gross floor area shall mean the total horizontal areas of the one or several floors of the building or portion thereof devoted to the use, including accessory storage areas located within selling or working space such as counter, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to offices; however, gross area shall not include that area devoted entirely and permanently to storage purposes, parking and loading facilities, or space used for restrooms, utilities, or elevator shafts.

§151.525 OFF-SITE PARKING FACILITIES.

- (A) Required off-street parking facilities shall be provided hereafter; the Board of Zoning Appeals is authorized to grant an off-site parking facility as a condition or commitment in accordance with the rest of this section.

- (B) A development plan for an off-site parking facility shall be filed with the Board of Zoning Appeals as a required exhibit accompanying the conditional use application and shall be made part of the conditions of any approval thereof. The development plan shall demonstrate compliance with all applicable standards of this chapter, shall be amended and re-approved to indicate any change or other modification of uses served, or number of parking spaces provided thereof, and shall indicate:
- (1) Adjacent streets, alleys, and lots;
 - (2) All individual primary uses to be served, including the location use and number of parking spaces for each use;
 - (3) A layout drawn to scale of aisles and driveways, entrances, exits, and turn-off lanes, parking spaces, setbacks, drainage facilities, and landscaping and buffer screening; and
 - (4) Type of lighting and pavement proposed, and identification signs including location, size, and design thereof.
- (C) Off-site parking facilities shall be provide with setback distances equivalent to the requirements of the district, and ingress and egress points shall be limited to protect the function of the adjoining streets.
- (D) Off-site parking facilities shall be encumbered by any instrument duly executed and acknowledged, which subject the accessory off-street parking facilities to parking uses in connection with the primary use served.
- (1) The instrument shall specify and bind the time period to the anticipated life of the building or use to which the parking facilities are an accessory.
 - (2) The instrument shall be filed in the applicable improvement location permit files of the Plan Commission office and placed in the public record in the office of the Wayne County Recorder.
- (E) Off-site parking facilities shall be developed in accordance with the provisions of § 151.526. The facilities shall be developed under conditions imposed by the Board of Zoning Appeals to protect residential districts and maintain at a minimum the disturbance to nearby residential uses.

§151.526 DEVELOPMENT STANDARDS.

- (A) All off-street parking areas for four or more automobiles shall be developed in accordance with the standards of this section, except in the case of one-, two-, and multi-family dwellings, agricultural and rural uses, and storage of vehicular merchandise not counting toward the minimum requirements as set forth in this chapter.
- (B) Required off-street parking spaces shall be so designed, arranged, and regulated, as to have individual spaces marked, be unobstructed, and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway.
- (C) Off-street parking spaces may be open to the sky or enclosed in a building; in any instance when a building is constructed or used for parking facilities on the lot, the building shall be treated as any major structure and subject to all requirements thereof.
- ✓(D) No repair work, sales, or services of any kind shall be permitted in association with accessory off-street parking facilities unless the facilities are enclosed in a building and otherwise permitted in the district.
- (E) All open off-street parking areas shall be surfaced with an all-weather paving material capable of carrying a wheel load of 4,000 pounds, or improved with concrete or a compacted macadam base and surfaced with an asphaltic pavement, to adequately provide a durable and dust-free surface which shall be maintained in good condition and free of weeds, dirt, trash, and debris, with the following exceptions.
 - (1) A gravel surface may be used for a period not exceeding one year after the date of granting the certificate of occupancy where ground conditions are not immediately suitable for permanent surfacing as specified above.
 - (2) A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost, and where absorption into the ground through a loose surface material would eliminate or alleviate the hazard.
- (F) Driveway entrances or exits shall be no closer than 15 feet to an adjoining residential property line, or five feet to an adjoining nonresidential property line, or designed in the manner to least interfere with traffic movement. No driveway across public property at right-of-way line of the street shall exceed a width of 30 feet; however, two driveways not exceeding 30 feet in width each may constitute a single entrance-

exit divider designed driveway, provided that the driveway conform to the requirements of the town, or the Wayne County Highway Department, whichever is applicable.

- (G) In any district, each use which is so located that it fronts on and provides access to an arterial thoroughfare shall provide a frontage lane parallel and adjoining the improved part of the right-of-way at least 11 feet in width for the turn traffic entering the lot. The frontage lane shall be at least 100 feet in length, exclusive of the entranceway and taper area; however, if the lot frontage is too small to meet this requirement, the frontage lane shall extend the entire width of the lot.
- (H) Any lighting facilities used to illuminate off-street area shall be located, shielded, and directed upon the parking area in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with street traffic. In no instance shall bare nonshaded bulbs be used for illumination.
- (I) Parking areas shall be graded and properly drained so that there will be no free flow of water onto either adjacent property or public sidewalks; and additional runoff generated by these improved areas shall be disposed of in appropriate drainage facilities.
- (J) Parking areas shall be so lined or designated as to insure the most efficient use of the parking spaces, and provided with bumper guards or wheel guards so located that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required yard or onto adjoining property.
- (K) No business signs or advertisements shall be permitted in parking areas; however, directional and identification signs shall be permitted.
- (L) Parking areas located in the commercial and industrial districts shall be provided with a landscape screen not less than four feet in height whenever the parking area is located within 100 feet of adjoining residential uses, or fronting upon any adjoining residential uses, except as otherwise provided in this chapter.
- (M) The ground areas between the required off-street parking area setback and any lot line shall be landscaped with appropriate material to adequately indicate delineation.
- (N) Parking areas may be provided with a one-story shelter building or guard building which shall not exceed 100 square feet of gross floor area and shall conform to all the structural requirements of the district.

MOBILE HOMES, MANUFACTURED HOME AND MOBILE HOME PARK, MOTEL AND
MOTOR HOTELS

§151.530 GENERAL REQUIREMENTS

The regulations prescribed by the State Board of Health or other authority having jurisdiction and as may be otherwise required by law, shall be complied with, in addition to the following regulations:

- (A) Manufactured home and mobile home parks shall comply with all area and yard requirements prescribed herein; motels shall also comply with all area and yard requirements prescribed for such uses in the district in which located.
- (B) The buildings, cabins and mobile homes in any tourist camp, manufactured home and mobile home park, or motel – together with any non-accessory buildings already on the lot shall not occupy in the aggregate more than twenty-five (25) percent of the area of the lot.
- (C) All areas used for automobile access and parking shall comply with the applicable provisions of this Ordinance.
- (D) No vehicular entrance to or exit from any manufactured home and mobile home park or motel, wherever such may be located, shall be within two hundred (200) feet along streets from any school, public playground, church, hospital, library or institution for dependents or for children, except where such property is in another block or another street which the premises in question do not abut.
- (E) All areas not used for access, parking, circulation, buildings and service shall be completely and permanently landscaped and the entire site maintained in good condition. A landscaped strip of land not less than ten (10) feet in width shall be established and maintained within the manufactured home and mobile home park along its exterior boundaries. Such strip of land shall be planted with coniferous or evergreen trees or a privacy-type fence, not less than six (6) feet in height and properly maintained shall be constructed.
- (F) Tie downs: Sufficient anchorage to resist flotation, collapse or lateral movement of any manufactured or mobile home, and according to manufacturer's installation instructions.

§151.531 ENLARGEMENT

- (A) No enlargements or extensions to any motel, manufactured home and mobile home park or a tourist camp shall be permitted unless the existing one is made to conform substantially with all the requirements for new construction for such an establishment.

§151.532 MOBILE HOMES RESTRICTIONS

- (A) The placement of Manufactured or Mobile Homes outside of Manufactured Home or Mobile Home Parks is as follows:
 - (1) A Manufactured Home is permitted in all zone districts that permit a residence.
 - (2) Mobile homes are permitted only by Special Exception as outlined in Sections 151.780 through 151.790.
 - (3) The parking of an unoccupied manufactured or mobile home in an accessory private garage, or in a rear yard, in any district, shall be permitted, providing no living quarters are maintained or any business conducted in such unit while so parked or stored, further providing that a maximum of ninety (90) days will be allowed for outside storage of such manufactured or mobile home.
- (B) Emergency or temporary stopping or parking of a mobile home shall be permitted on any street, alley or highway for not longer than four (4) hours, subject to any other and further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or laws for such street, alley or highway.
- (C) In any manufactured home and mobile home park, the wheels of any manufactured or mobile home shall not be removed except for repairs, nor shall any manufactured or mobile home be otherwise permanently fixed to the ground in a manner that would prevent its removal.

§151.533 MANUFACTURED HOME AND MOBILE HOME PARKS – SUBMISSION OF PLANS

An application for the establishment of a manufactured home and mobile home park in a district where a manufactured home and mobile home park is permitted shall be filed with the Zoning Inspector and must be accompanied by a scale drawing certified by a registered engineer or surveyor. Such drawing shall contain the following information:

- (A) Accurate dimensions of the proposed manufactured home and mobile home park.

- (B) All roads and approaches and the method of ingress and egress.
- (C) The complete electric service installation, wire service outlets and lighting facilities.
- (D) The complete location of any natural gas facilities to serve the manufactured and mobile home park.
- (E) A complete layout of unit parking spaces and the number of square feet therein, together with the dimensions thereof.
- (F) The location of electrical power of gas distribution systems, water mains or wells for water supply outlets for domestic water users; location of sanitary facilities, washrooms, garbage disposal units, incinerators, sanitary sewers, or septic tanks, sewer drain lines, leeching beds, and other buildings or structure contemplated to be used by such applicant in connection with said mobile home park.

§151.534 MANUFACTURED HOME AND MOBILE HOME PARKS – REQUIREMENTS

Manufactured home and mobile home parks shall be designed and maintained in accordance with the following requirements:

- (A) The minimum park area shall be two (2) acres.
- (B) The minimum area of a manufactured or mobile home unit space within the mobile home park shall be three thousand (3,000) square feet.
- (C) The minimum width of a manufactured or mobile home unit space within the manufactured home and mobile home park shall be forty (40) feet.
- (D) Each manufactured home and mobile home park shall abut upon a public street and each manufactured or mobile home unit space shall have direct access to a private, hard surface drive.
- (E) The minimum distance for each manufactured or mobile home from the exterior property lines shall not be less than fifty (50) feet.
- (F) The minimum distance between neighboring manufactured or mobile homes shall be not less than twenty (20) feet.
- (G) Each manufactured or mobile home unit space shall be equipped with concrete slab of sufficient size to support the wheels and the front parking jack. Such slabs shall have a minimum thickness of four (4) inches.

- (H) Each manufactured or mobile home space shall be equipped with one electric outlet. A sanitary system and water system shall be installed in accordance with applicable Town, County and State specifications, and each manufactured or mobile home unit space shall be served by such sewer and water systems.
- (I) The minimum roadway width of interior one-way streets with parking permitted on one side shall be twenty (20) feet. The minimum roadway width of two-way streets with parking permitted on one side shall be twenty-six (26) feet. The minimum width of two-way street without parking permitted shall be twenty (20) feet. Such streets shall be paved according to the Town's specifications for residential streets, maintained in good condition, and lighted at night.
- (J) There shall be provided within each manufactured home and mobile home parks an adequate site or sites for recreation, for the exclusive use of the park occupants. Such recreation site or sites shall have a minimum area in the aggregate of one hundred (100) square feet for each manufactured or mobile home unit space. The recreation sites shall be appropriate design and provided with appropriate equipment.
- (K) No manufactured or mobile home shall remain in a manufactured home and mobile home park for a period exceeding five (5) days without connection to the sanitary sewer system and water system of the park.

§151.535 PROCEDURE FOR ADDITIONAL REQUIREMENTS

- (A) In addition to the foregoing, the Board of Zoning Appeals may impose such other conditions, requirements, or limitations concerning the design, development, and operation of such manufactured home and mobile home parks as it may deem necessary for the protection of adjacent properties and the public interest.
- (B) The terms "Manufactured Home and/or Mobile Home" as defined and used in this Ordinance have the same connotation.

SIGN REGULATIONS

§151.540 SIGNS

The provisions contained herein shall constitute the minimum acceptable standards for the control of outdoor advertising, signs, displays, and devices where permitted. This section contains sign regulations for both the incorporated and unincorporated areas of the jurisdictional area of the Town.

(A) GENERALLY.

- (1) This section shall be construed and implemented to create a comprehensive and balanced system of sign control that accommodates both the need for a well-maintained, safe and attractive community, and the need for effective business identification, advertising and communication. It is the intent of this section, and it shall be interpreted, to promote the health, safety, convenience, aesthetics, and general welfare of the community by controlling signs that are intended to communicate to the public, and to authorize signs that are:
- (2) Compatible with their surroundings and building on which they are placed, enhancing the architectural features and styles of the building;
- (3) Designed, constructed, installed, and maintained in a manner that does not endanger public safety or unduly distract motorists; and
- (4) Appropriate to the type of activity to which they pertain.

(B) ADVERTISING SIGNS.

- (1) Areas where advertising signs are permitted; In A-1 agricultural Zone District.
- (2) Setback requirements.
 - (a) In A-1 Agricultural Zone District, 50 feet from the right-of-way.
 - (b) In A-1 Agriculture Zone District, all sign structures shall be located at least 50 feet from adjoining property lines.
- (3) Space of signs.
 - (a) No advertising sign structure shall be permitted within 300 feet of any building used as a residence.
 - (b) No advertising sign or structure shall be within 500 feet of any of the following: public park entrance, public or parochial school, library, church, any museum or historical monument, and safety rest or

recreation area, any sanitary or other facility for the accommodation of the motorist, publicly owned, controlled, and maintained.

- (c) No sign structure shall be erected within 300 feet of another sign structure on same side of the highway.
- (d) Official and on premises signs shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.
- (e) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

(4) Size of signs.

- (a) The maximum size of advertising signs where permitted shall not exceed 200 square feet, exclusive of and border, trim, base, or support. The sign shall not exceed ten feet in height and 20 feet in length. The maximum overall height, inclusive of a base of support, shall not exceed 15 feet.
- (b) The sign structure may contain one or two advertisements per facing, not to exceed the maximum area.
- (c) Double-faced structures will be permitted with the maximum area being allowed for each facing.

(5) Lighting.

- (a) Signs that contain, include, or are illuminated by flashing, intermittent, or moving light are prohibited, except those giving service information such as time, date, temperature, weather, or similar information.
- (b) Signs which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled ways, and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle, are prohibited.
- (c) No sign shall be so illuminated as to obscure or interfere with the effectiveness of an official traffic sign, device, or signal.
- (d) All other state laws relating to lighting of signs presently applicable to highways shall be met.

(C) BUSINESS SIGNS.

- (1) Area. The gross area of all exterior signs of a business or business building shall not exceed three square feet for each linear foot of lot frontage. No business shall have more than three signs, except that one additional sign shall be permitted for each public entrance to the business or business building in addition to the main public entrance.

(2) Location.

- (a) Exterior business signs, where permitted, shall be integral with or attached to the business building, shall not project beyond the building structure unless attached to a marquee or sidewalk canopy and shall not exceed above the parapet wall or roof line, whichever is higher, except as described below.
- (b) Signs perpendicular to the face of a building shall be permitted only if securely attached and have a surface area of no more than 24 square feet, no more than 48 inches by 72 inches and projecting not more than 78 inches from the exterior surface of the building wall.
- (c) Signs perpendicular to the face of the building shall restrict the subject matter thereof to products, accommodation, services or activities on the premises. The signs may be illuminated, but shall not be flashing.
- (d) A directional sign, directory or other similar informational sign showing all tenants or businesses in a multi-tenant business building and/or the name of a building is permitted, provided the sign meets any specific requirements for the district, and provided further that the total number and size of signs for the entire building, including the directional sign, shall meet the requirements of the district.

- (3) Exterior signs. For any motor vehicle service station, motel, motor vehicle sales lot, restaurant, or planned commercial development where these are permitted, an exterior business sign displaying only the identifying name or symbol or the use or the planned commercial development as a whole may be supported on a freestanding structure located in front of the use or development but the sign shall not project over the street line and shall not be located within 25 feet of the side lot line of any adjoining lot in any R-District. The freestanding or pedestal signs shall not exceed 12 feet in height and 32 square feet in area.

- (4) On premise. On premise signs means those signs advertising an activity conducted or maintained on the property on which they are located.

(D) REAL ESTATE SIGNS.

Real estate signs advertising the sale, rental, or lease of the premises on which they are maintained shall be set back from the right-of-way line of any street at least one-half the depth of the required front yard in the districts where located, provided, however, that the sign shall not exceed six square feet in area and when attached flat against the building to which it pertains shall be permitted in any case. The real estate signs on any one lot shall not exceed in the aggregate, 15 square feet in area.

(E) ANNOUNCEMENT SIGNS AND INSTITUTIONAL BULLETIN BOARDS.

A church, school, community center, or other public or institutional structure may have for its own use upon the premises the structure is located a sign not over 12 square feet in area, which, if not attached flat against the structure, shall not be located or encroached within any public walking area or within the right of way of any public street or alley.

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SUBDIVISION CONTROL REGULATIONS

§151.550 ESTABLISHMENT OF CONTROL.

No plat or replat of a subdivision of land located within the jurisdiction of the Hagerstown Advisory Plan Commission shall be filed with the Wayne County Auditor, and the Wayne County Recorder shall not record same unless it has first received secondary approval by the Hagerstown Advisory Plan Commission, and such approval shall have been entered in writing on said plat by the Secretary of said Commission and further evidenced by affirming the Commission's seal upon the plat.

§151.551 COMPLIANCE

No person shall divide, record, transfer or sell any parcel before the proposed subdivision has been approved in accordance with the processes and provisions of this Ordinance, and filed with the County Recorder, unless otherwise specified by this Ordinance.

- A. **Subdivision Defined:** The definition for both "subdivide" and "subdivision" are found within the definition section of this Ordinance.
- B. **Public Safety:** Land to be subdivided and developed must be able to be done so without adding peril to public safety, welfare, or health from flooding or other menace.
- C. **Accessibility:** Land shall not be subdivided unless appropriate public thoroughfare access is demonstrated to be possible.
- D. **Public Facilities:** Land shall not be subdivided unless all required public facilities are in place, or improvements and proper provisions have been planned and a surety given by the petitioner to meet all requirements for drainage, water, sewerage, and transportation facilities adequate for serving the subdivision. The general requirements of public schools, local police and fire departments, and other public service providers may also be considered.
- E. **Plan Commission Approval:** No plat or re-plat of a subdivision of land located within the jurisdiction of the Hagerstown Advisory Plan Commission shall be recorded until it has been approved by the Commission, and such approval has been certified on the plat by the President and Secretary of the Commission.
- F. **Permitted Uses:** No land shall be subdivided unless the intended use of the individual lot is in conformance with the Hagerstown Zoning Ordinance, now or hereafter adopted.

- G. **Natural /Historic Features:** In all subdivisions, due regard shall be given to the preservation of historical sites and natural features such as large trees, water courses, wetlands, floodways, and scenic views.
- H. **Permits:** No Improvement Location Permit or Certificate of Occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these Subdivision Regulations. No excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations contained herein and in conformity with all additional construction standards adopted by the Hagerstown Town Council.
- I. **Legal Non-Conforming Subdivisions:** Any parcel surveyed, recorded, sold, leased, contracted for, or transferred prior to the effective date of this Ordinance that was officially approved and met all the requirements of the subdivision ordinance, or subdivision ordinances in effect at the time the proposed building site was established, and was recorded may be a grandfathered or legal nonconforming subdivision.

§151.552 OTHER DEPARTMENT OR AGENCY REQUIREMENTS.

The Hagerstown Advisory Plan Commission shall not approve said plat or replat that is within the unincorporated two-mile jurisdictional territory until the requirements of the following departments or agencies have been satisfied, when applicable: Wayne County Health Department, Wayne County Surveyor, Wayne County Drainage Board, Wayne County Soil Conservationist, Wayne County Board of Commissioners, Wayne County Highway Superintendent and Wayne County Highway Engineer.

§151.553 TERRITORIAL LIMITS OF REGULATIONS.

The rules and regulations governing the subdivision of land contained herein shall apply within all of the zoning jurisdictional territorial areas of the Hagerstown Advisory Plan Commission.

§151.554 TECHNICAL REVIEW COMMITTEE.

The Plan Commission may establish this committee to review the application for technical conformity with the standards of this Ordinance when requested by the Plan Commission, Plat Committee or Plan Commission Staff. The committee shall send their comments to the pertinent hearing. Such comments are not binding for action to be taken on a subdivision.

§151.555 MINIMUM STANDARDS – CHECKLIST REQUIREMENTS.

There is hereby established a list of minimum standards that have heretofore been established by the Plan Commission as conditions for passage of a subdivision. These conditions must be contained in the subdivision to which they are applicable, and a checklist will be submitted by the developer, along with each plat, showing that these documents have been prepared, approved by the respective department or agency and are included in the plat petition materials. This checklist may be supplemented from time to time by conditions recommended by the technical committee, the compliance to which will also be submitted along with the plat, and made a part of the report to the Plat Committee, or the Plan Commission, upon submission for secondary approval.

SUBDIVISION APPROVAL OF PLATS AND REPLATS

§151.560 AUTHORITY OVER PLATS AND REPLATS.

The Hagerstown Advisory Plan Commission or Plat Committee has exclusive control over the approval of plats and replats, of subdivisions involving land in Wayne County, under its jurisdiction.

§151.561 STANDARDS FOR APPROVAL.

(A) In determining whether to grant primary approval of a plat, the Plan Commission shall determine if the plat or subdivision qualifies for primary approval under the standards prescribed in the subdivision regulations in the following areas:

- (1) Minimum width, depth and area of the lots in the subdivision.
- (2) Public way widths, grades, curves, and the coordination of subdivision public ways with current and planned public ways.
- (3) The extension of water, sewer, and other municipal services.
- (4) Fair allocations of areas for streets, parks, schools, public and semi-public buildings, homes, utilities, business and industry.
- (5) Any approval must meet the standards prescribed in the Hagerstown Zoning Ordinance for a similar use.

As a condition of primary approval of a plat, the Commission may specify:

- (1) The manner in which public ways shall be laid out, graded and improved.
- (2) Provisions for water, sewage and other utility services.
- (3) Provisions for lot size, number and location.
- (4) Provisions for drainage design.
- (5) Provisions for other services as specified in the Subdivision Regulations.

§151.562 REPLAT.

A replat of an approved or recorded subdivision plat shall be required for any change in said plat, if such change affects a street layout, any lot line, or an area reserved for public use. The transfer between adjoining property owners that does not create any additional building lot shall not require a replat.

- (A) All of the owners of the land in the plat proposed for the replat must acknowledge in a written document that they are a part of the requested plat.
- (B) A replat request must be approved by the Plan Commission utilizing the same procedure, rules and regulations as for subdivision approval.

PROCEDURES

§151.570 APPLICATION.

Any person desiring the approval of a plat shall submit an application for approval the form(s) provided by the Commission.

§151.571 PRELIMINARY CONSIDERATIONS.

In order to make the most of the opportunities related to the subdivision and to conserve time, effort and expense, the owner or subdivider shall consult with the Planning Director prior to the preparation of the tentative plan of the subdivision. The need for sanitation, water supply, drainage, and public utilities, and relationship to other developments, existing, and proposed, in the vicinity, should be determined in advance of preparation of the subdivision plan. Consultation should also be held with those familiar with the economic factors affecting the subdivision.

§151.572 COMPREHENSIVE PLAN REQUIREMENTS.

The Comprehensive Plan should be reviewed to determine how the proposed plan is to be coordinated with the elements of the Comprehensive Plan. The owner or developer shall determine that the proposed subdivision provides for the following:

- (A) Coordination of subdivision streets with existing and planned streets or highways;
- (B) Coordination with and extension of facilities included in the Comprehensive Plan;
- (C) Establishment of minimum width, depth, and area of lots within the projected subdivisions as set forth in Zoning Ordinance;
- (D) Distribution of population and traffic in a manner tending to create conditions favorable to health, safety, convenience and the harmonious development of the Town
- (E) Fair allocations of areas for streets, parks, schools, public and semi-public buildings, home utilities, business and industry as outlined by the Comprehensive Plan.

§151.573 DESIGN CRITERIA.

The developer shall also determine that the proposed subdivision meets the design criteria required by the Commission, including the manner in which streets shall be laid out, graded and improved, and that he has made the required or adequate provisions for water, sewage, other utility services, schools, essential municipal services, and recreation facilities.

§151.574 STREET ACCESS, DRAINAGE, UNSUITABLE CONTOURS.

No land shall be approved for a subdivision unless adequate access to the land over improved streets or thoroughfares exists or will be provided by the subdivider; or if the land is subject to period flooding, lies below the designated flood elevation level; or if it is otherwise considered by the Commission to be unsuitable for urban development by reason of improper drainage, objectionable earth and rock formation, steep slopes, or any other feature that may be harmful to the health and safety of possible residents or the county as a whole.

§151.575 DOCUMENTS REQUIRED TO BE SUBMITTED ON PRIMARY APPROVAL.

(A) For minor subdivision.

- (1) The subdivider shall submit six (6) copies of preliminary plat of the proposed subdivision, drawn to a scale of one hundred (100) feet to one (1) inch. This preliminary plat does not require the precise detail of a plat for secondary approval but shall include the following:
 - (a) Proposed name of the subdivision.
 - (b) A legal description of the subdivision.
 - (c) Name and address of the surveyor or engineer who prepared the preliminary plat.
 - (d) Layout of lots, showing numbers, dimensions, areas and building setback lines.
 - (e) Right-of-way adjacent to the subdivision showing name, existing and proposed width of right-of-way, type and width of pavement.
 - (f) Proposed entrance to lots with sight distance.
 - (g) Easements, existing or proposed.
 - (h) Soil types
 - (i) Drainage pattern to and from subdivision.
 - (j) Any information deemed necessary.
 - (k) Names of adjoining property owners.

(B) For major subdivision.

Note: six (6) copies of the following information and plans shall be submitted.

- (1) A location map is required showing the following:
 - (a) Proposed subdivision name and location;
 - (b) Thoroughfares related to the subdivision;
 - (c) Public transportation lines;
 - (d) Main shopping center;

- (e) Community or neighborhood stores;
- (f) Elementary and high schools, including location of those proposed in the Comprehensive Plan;
- (g) Parks and playgrounds, including locations of those proposed in the Comprehensive Plan;
- (h) Zoning district boundaries and districts in the area;
- (i) Other community features;
- (j) Title, scale, north point and date of preparation.

(C) A site map showing the following shall be submitted:

- (1) Topographic data in the following forms, which shall be determined by the Planning Director during preliminary consideration of the plan;
 - (a) A contour map with vertical intervals of at least two (2) feet if the general slope of the site is less than ten (10) percent, and vertical intervals of five (5) feet if the general slope is greater than ten (10) percent. U.S. Geological Survey (U.S.G.S.) topographic data may be used in the preparation of the preliminary plan, unless the Commission requires a topographic survey, in which case topographic data shall refer to U.S.G.S. North America Datum – Mean Sea Level Elevation;
 - (b) Water courses, marshes, rock outcrops, wooded areas and other natural or man-made features which would affect the plan of subdivision in detail satisfactory to the Commission;
 - (c) Tract boundary lines, showing dimensions, bearings, angles and references to section, township and range lines or recorded corners.
 - (d) Streets and right-of-way on or adjoining the site to a distance of not less than one hundred fifty (150) feet from site boundaries, including dedicated right-of-way widths, roadway widths, approximate gradients, types and widths of pavements, curbs, sidewalk, tree planting and other pertinent data;
 - (e) Easement locations, widths and purposes.
 - (f) Utilities, including sanitary and storm sewer, other drainage facilities, water lines, gas mains, electric utilities and other facilities, including size or capacity of each and the location of or distance to each utility indicated;
 - (g) Zoning of the site and adjoining property;
 - (h) Existing or proposed platting of adjacent land;
 - (i) Other features or condition which would effect the subdivision either favorably or adversely; and
 - (j) Title, scale, north point and date.

(D) A preliminary plan of the subdivision, drawn to a scale of a minimum of one hundred (100) feet to one (1) inch, except that when the drawing at that scale requires more than one (1) sheet, a scale recommended by the Planning Director may be used. All plats shall be drawn on a sheet(s) twenty-four (24) by thirty-six (36) inches in size. The preliminary plan shall show:

- (1) Proposed name of the subdivision;
- (2) Name and addresses of owner and subdivider and the engineer or surveyor who prepared the plans;
- (3) Street pattern, showing the names (which shall not duplicate names of other streets in the county) and widths of right-of-ways of streets, and widths of crosswalks, easements and alleys;
- (4) Layout of lots, showing dimensions, areas and numbers;
- (5) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public or community purposes;
- (6) Building setback or front yard lines;
- (7) Key plan, legend and notes; and
- (8) Scale, north point and date.

Note: The plan and information called for in Section 151.562-2(B)(C) above may be submitted on one or more sheets or maps but shall be of the size required under "C" above.

- (E) Certification or other evidence of approval by the Wayne County Health Officer of the proposed plans in respect to the proposed means of sewage disposal and the size of lots.
- (F) A true copy of the proposed protective covenants or private restrictions, if any, to be incorporated in the plat of the subdivision.
- (G) Information as to any agreements which have been entered into with the owners of other property within the neighborhood in which the proposed subdivision is located, as to general plans for the entire neighborhood. (Reference should be made to the Comprehensive Plan for suggestions as to the general street pattern and design of the neighborhood.)

§151.576 HEARING.

Notice and Public Hearing.

(A.) After the Plan Director has announced a date for a hearing before the Plan Commission, it shall:

- (1) Notify the applicant in writing.
- (2) Give notice of the hearing by publication in accord with IC 5-3-1.
- (3) Provide due notice to interested parties at least ten (10) days before the date set for the hearing.
- (4) The public hearing will be conducted as outlined in the Rules of Procedure for the Plan Commission.

§151.577 RULES.

The Plan Commission shall from time to time establish rules for procedure, such as the process of hearings, notice, etc., which will be governing and will control all hearings of the Commission.

PLAT COMMITTEE

§151.580 PLAT COMMITTEE GENERAL.

The Plan Commission may appoint a plat committee to hold hearings on matters delegated to it on behalf of the Plan Commission.

§151.581 COMMITTEE MAKE-UP.

- (A) The plat committee shall consist of three (3) or five (5) persons, with at least one (1) of the members being a member of the Plan Commission.
- (B) The appointment of a member of the plat committee is for a term of one (1) year, but the Commission may remove a member from the committee.
 - (1) The commission must mail notice of the removal along with written reasons for the removal.
 - (2) A member who is removed may not appeal the removal to a court or otherwise.

§151.582 COMMITTEE QUORUM.

The plat committee may take action only by a majority vote of committee members.

§151.583 MEETINGS.

The plat committee meetings shall be scheduled by the Plan Director as needed to review and conduct hearings on behalf of the Plan Commission.

- (A) All meetings shall be open to the public.

§151.584 POWER.

The plat committee has the power to act in the following matters:

- (A.) MINOR SUBDIVISIONS. A minor subdivision of land that does not involve the opening of a new public way and that complies in all other respects with the Subdivision Regulations and Zoning Ordinance may be granted primary approval by the plat committee without public notice and hearing subject to appeal to the Plan Commission.

APPROVAL

§151.590 PRIMARY APPROVAL BY PLAT COMMITTEE – MINOR SUBDIVISION.

- (A) Review of application.

- (1) For minor subdivision that does not involve the opening of a new way:
 - (a) The Plan Director shall review the application for technical conformity with the standards fixed in the Subdivision Regulations.
 - (b) Within thirty (30) days after receipt of the application, the plat committee shall review the application and grant primary approval or deny primary approval.
 - (c) Within ten (10) days after primary approval or denial, the Plan Director shall provide for due notice to interested parties of their right to appeal to the Plan Commission the primary approval or disapproval of the plat, or the imposition of a condition on primary approval by the plat committee.

- (B) Appeals Procedure.

- (1) An applicant or other interested parties may appeal to the Plan Commission the primary approval or disapproval of a plat, or the imposition of a condition on primary approval by the plat committee.

- (2) A notice of appeal must be filed with the Plan Commission within ten (10) days after a copy of the action of the plat committee is mailed to the interested party or applicant.
- (3) If an appeal is filed, notices shall be given and a public hearing held by the Plan Commission in the same manner as outlined in 151.591.

§151.591 PRIMARY APPROVAL BY PLAN COMMISSION – MINOR SUBDIVISION.

(A) Review of application.

- (1) The Plan Director shall review the application for technical conformity with the standards fixed in the Subdivision Regulations.
- (2) Within thirty (30) days after receipt of the application, the planning department staff shall announce the date of a hearing before the Plan Commission.
- (3) The Plan Director shall transmit the plat and construction plans to appropriate agencies (utilities, government agencies, etc.) as deemed necessary for review and comment. The staff shall request that a report be returned within fifteen (15) days after receipt of the request.

(B) Primary approval.

- 1) If, after the public hearing, the Plan Commission determines that the application and plat comply with the requirements in the Subdivision Regulations, it shall make written findings and a decision granting primary approval to the plat.
- (2) If, after the public hearing, the Plan Commission disapproves the plat, it shall make written findings that set forth its reasons and a decision denying primary approval and shall provide the applicant with a copy.
- (3) Any decision must be signed by the Plan Commission secretary.
- (4) The Plan Commission has the power to approve, disapprove, or impose conditions on the approval of plats.
- (5) The primary approval by the Plan Commission of a plat must be certified on behalf of the Commission by the Plan Commission secretary.
- (6) Primary approval of a plat shall be effective for a period of twelve (12) months, unless, upon request of the applicant, the Commission grants an extension.

§151.592 APPEALS.

- (A) The primary approval of a plat by the Plan Commission or the imposition of a condition on primary approval is a final decision of the Plan Commission that may be reviewed by certiorari.
- (B) Said appeal for review shall be presented to the Circuit or Superior Courts of Wayne County within thirty (30) days after the date of the decision of the Plan Commission

§151.593 SECONDARY APPROVAL.

The following are secondary approval documents needed for submission:

- (A) Engineering plans and any other prerequisites established on primary approval showing the following information:
 - (1) Profiles, typical cross-sections and specifications for proposed street improvements; and
 - (2) Profiles and other explanatory data concerning the installation of sanitary and storm sewage systems and water distribution system, including elevations, minimum lengths and sizes of all culverts, pipes, drop inlets, head walls and other drainage information.
- (B) A plat submitted for secondary approval shall meet the following specifications:
 - (1) The original drawing of the secondary plat of the subdivision shall be drawn to a scale of one hundred (100) feet to one (1) inch. The secondary plat shall be drawn on a sheet twenty-four (24) by thirty-six (36) inches in size and if the resulting drawing would be over 24 x 36 inches in size, it may be submitted on more than one sheet. The original drawing of one (1) transparency print, and three (3) line prints of the secondary plat and all required signed certifications of approval shall be submitted to the Commission.
 - (2) Plat requirements for minor subdivision may include all or parts of the documents spelled out for a major subdivision. Prior to preparation of a plat for secondary approval, the developer shall confer with the Plan Director to determine what the minimum requirements are.

(C) The following basic information shall be shown:

- (1) All plat boundary lines with lengths of courses to hundredths of a foot and bearings to half minutes – these boundaries to be determined by an accurate survey in the field which shall be balanced and closed with an error of closure not to exceed one (1) foot in ten thousand (10,000) feet;
- (2) The exact location and width along the property line of all existing recorded streets intersecting or paralleling the boundaries of the tract;
- (3) Accurate distances and directions to the nearest street corners or official monuments. Reference corners shall be accurately described on a plan. Each plat shall show bearing and distance to two monumented and referenced section or quarter section corners and show the origin of the bearing of the lines. There shall be sufficient information on the plat to permit, in the future, accurate relocation of all property corners and street lines;
- (4) Accurate metes and bounds description of the boundary;
- (5) The accurate location and type of material of all permanent referenced monuments.
- (6) Source of title to the land as shown by the books of the County Recorder.
 - (a) Description of title as shown on Auditor's Transfer Books.
 - (b) If more than one owner, statement of proper division of owners of separate lots as they shall be entered on Auditor's Transfer Books.
- (7) The exact layout, including (a) street and alley lines with accurate dimensions in feet and hundredths of feet; their name, bearings, angles of intersection and widths (including widths along the line of any obliquely-intersecting street); (b) the length of all arcs-radii, points of curvature and tangent bearings; (c) all easements, when provided for or owned by public services (with the limitation of the easement rights definitely stated on the plat); (d) all lot line with dimensions in feet and hundredths and with bearings and angles to minutes if other than right angles to the street and alley lines.
- (8) Lots and blocks numbered in numerical order;
- (9) The accurate outline and dimensions of all property (a) which is offered for dedication for public use, and of all property which may be reserved for acquisition by a public agency for such use of (b) which may be reserved by

covenant in the deeds for the common use of the property owners in the subdivision, with the purpose indicated thereon;

- (10) In case the subdivision is traversed by a watercourse, channel, stream or creek, the present and any prior locations of such watercourse, channel, stream or creek;
- (11) Building setback lines as fixed by the Zoning Ordinance and any other setback lines or street lines established by public authority, and those stipulated in the deed restrictions;
- (12) Private restrictions, if any: (a) boundaries of each type of use restrictions; (b) other private restrictions for each definitely restricted section of the subdivision.
- (13) Name of the subdivision and name of number of the largest subdivision or tract of which the tract being subdivided forms a part;
- (14) Names and locations of adjoining subdivisions and location and ownership of adjoining subdivided property;
- (15) Names and addresses of the owner of record, the subdivider and the engineer or surveyor who prepared the plat;
- (16) North point, scale (numerical or graphic), and date;
- (17) Statement that any lot transferred will have a width and area the same as those shown on the plat;
- (18) Certification by a registered professional engineer or surveyor or the effect that: (a) the plat represents a survey made by him and that all monuments indicated thereon actually exist and their location, size and material are correctly shown; and (b) that all requirements of these Subdivision Regulations have been fully complied with;
- (19) A certificate by the owner of the land in substantially the following form: "As owner, I hereby certify that I caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on the plan". This certificate shall be executed as a conveyance is executed.
- (20) A certificate issued by the County Treasurer to the effect that there are no unpaid special assessments on any of the land included in the plat;

(21) Certificate of dedication of street and of other properties offered for dedication for public uses; and

(22) Certificates for approval by the Commission.

§151.594 SECONDARY APPROVAL PROCEDURE.

- (A) The Plan Commission has authority to grant secondary approval on all minor and major plats or delegate to the plat committee authority to grant such approval.
- (B) The Plat Committee shall have authority to grant secondary approval on minor plats and any other matters delegated to it by the Plan Commission.
- (C) Secondary approval of a plat may be granted, after expiration of the time period for appeal of primary approval.
- (D) Secondary approval does not require notices or public hearing.
- (E) Secondary approval request must be submitted by the petitioner to the Plan Director.
- (F) Secondary approval may include all or only part of the primary approved plat, submission of a plat for secondary approval covering a portion of the area contained in the primary approved plat may be permitted only after consideration of the effect of the continuity of roads, utilities and services.
- (G) When secondary approval of a plat is granted, the plat shall be certified and signed by the president and secretary of the Plan Commission and the Commission seal be affixed to the plat.
- (H) Secondary approval shall be void unless the plat is properly recorded in the office of the County Recorder within twelve (12) months after approval. This time limit may be extended by the Plan Commission upon written request of the subdivider.
- (I) The filing and recording of the plat is without legal effects unless the Plan Commission or plat committee grants Secondary approval.

FINANCIAL RESPONSIBILITY/BONDS

§151.600 CERTIFICATE OF FINANCIAL RESPONSIBILITY.

In submitting the secondary plat to the Commission, it shall be accompanied by evidence stating that there has been filed with and approved by the applicable government body, one of the following:

- (A) A certificate by the Town Manager, County Engineer and County Surveyor that all improvements and installations to the subdivision required by Section 151.630 through 151.632 and 151.670 through 151.673 of this Ordinance have been made or installed in accordance with specifications: or

§151.601 PRELIMINARY BOND.

- (A) If the improvements or installations have not been completed, the developer may be allowed to proceed by posting a bond, which shall:
 - (1) Run to the Wayne County Board of Commissioners or Town of Hagerstown as applicable;
 - (2) Be in an amount determined by the Commission to be sufficient to complete the improvements and installations in compliance with these subdivision regulations;
 - (3) Be with surety satisfactory to the Commission, and
 - (4) Specify the time for completion of the improvements and installations.
 - (5) If improvements are not completed within a period of time established by the bond, the surety company shall be responsible for the completion of the works within the subsequent twelve (12) months.
- (B) The subdivider shall have the option of either of the following courses of action in lieu of providing the bond as specified in Section 151.601(A).
 - (1) The subdivider may deposit cash money with the Wayne County Auditor or the Hagerstown Town Clerk; whichever is applicable, in the amount of the bond. In this event, the subdivider shall be entitled to receive progress payments of not more than 90% of the value of any work completed; provided, however, that all such work completed shall have been inspected and approved by the appropriate town and county officials. The remaining 10% of the cash deposit over and

above the 90% progress payments shall be retained by the County Auditor or Town Clerk for a period of three (3) years from the date of final approval of the improvements and can be used to repair any defects in workmanship or materials which might develop in such improvements; provided, however, that such 10% of the deposit money shall be paid to the subdivider upon filing of the Maintenance Bond required by Section 151.602 hereof. Any payments or release of funds by the County Auditor or Town Clerk shall be made only upon receipt of an approval certificate signed by the President of the Board of Commissioners and attested by its secretary or by the President of the Town Council attested by the Town Clerk.

- (2) The subdivider may file bonds obtained by the contractors who are to perform the several phases of the work to be performed in installing the improvements provided that the amounts of such bonds are in amounts satisfactory to the County Board of Commissioners or Town Council for the particular work to be done and provided further that if several bonds are filed as provided in this section all such bonds shall have a common surety.

§151.602 MAINTENANCE BOND FOR STREETS.

- (A) The approval of a secondary plat by the Commission shall not be deemed to be an acceptance of the dedication of any public street, road, or highway offered for dedication in such plat.
- (B) Before the acceptance of any streets, sidewalks, curb and gutter, sewer or other improvement the sub-divider shall furnish a three (3) year Maintenance Bond covering such improvements which shall:
 - (1) Run to the Wayne County Board of Commissioners or Hagerstown Town Council in an amount equal to twenty-five percent (25%) of the cost of said improvements as estimated by the applicant and approved by the Commission.
 - (2) Provide surety satisfactory to the appropriate government entity.
 - (3) Warrant the workmanship and materials used in the construction and completion of said improvements to be of good quality.
 - (4) Warrant the construction has been in accordance with the procedures, regulations, and requirements of these specifications and the approved proposal of the applicant.

- (5) Provide that for a period of three (3) years after the date of the Commission's hearing at which the applicant submitted this maintenance bond, the applicant will, at his own expense, make all repairs to said improvements which may become necessary by reason of improper workmanship or materials, with such maintenance, however, not to include any damage to said improvements resulting from forces or circumstances beyond the control of said applicant or occasioned by the inadequacy of these specifications.

PRINCIPLES OF DESIGN AND MINIMUM REQUIREMENTS FOR THE LAYOUT
OF SUBDIVISIONS

§151.610 GENERAL REQUIREMENTS.

In laying out a subdivision, the sub-divider shall comply with the following principles and requirements:

- (A) The subdivision shall conform to the principles, standards, and proposals set forth in or contained in the Comprehensive Plan.
 - (1) Whenever a tract to be subdivided embraces any part of a highway, thoroughfare, major street or parkway, so designed on said plan, such part of such public way shall be platted by the sub-divider in the location and at the width indicated on the plan.
 - (2) Where a proposed park or other recreational area, school or other public ground shown in said plan is located in whole or in part within the proposed subdivision, such proposed public ground or park, if not dedicated to the City, County or Board of Education, shall be reserved for acquisition by the City, County or Board of Education, as the case may be, within a period by two (2) years by purchase or other means.
- (B) Where held appropriate by the Commission, open spaces, constituting a reasonable proportion of the gross acreage of the subdivision, suitably located and of adequate size for parks, playgrounds or other recreational purposes for local or neighborhood use shall be provided for in the proposed subdivision; and if not dedicate to the City or County, as the case may be, shall be reserved for the common use of all property owners in the proposed subdivision by covenant in the deeds.
- (C) Due regard shall be shown for all natural features, such as tree growth, water courses, historic spot, or similar conditions.

§151.611 STREET LAYOUT REQUIREMENTS.

The street layout of the subdivision shall be in general conformity with a plan the most advantageous development of adjoining areas and the entire neighborhood:

- (A) Where appropriate to the design, proposed streets shall be continuous and in alignment with existing, planned or platted streets with which they are to connect.

- (B) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless in the opinion of the Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts. Cul-de-sacs of reasonable length will be approved where they are appropriate for the type of development contemplated or where necessitated by topography or other limiting conditions. However, such cul-de-sacs should not exceed five hundred (500) feet in length if fifteen (15) or more lots abut such street.
- (C) Minor streets shall be so designed that their use by through traffic shall be discouraged.
- (D) Proposed streets shall intersect one another as nearly at right angles as topography and other limiting factors of good design permit.
- (E) Wherever there exists adjacent to the tract to be subdivided a dedicated or platted and recorded half width street or alley, the other half-width of such street or alley shall be platted.
- (F) Alleys shall be platted in all business districts, to provide safe access to residential lots fronting on highways, major thoroughfares, and parkways. Alleys shall be platted in the rear of such lots or service drives provided in front thereof. (Alleys will not be approved in other locations in residence districts, unless required by unusual topography or other exceptional conditions.)
- (G) Intersections of more than two (2) streets at one point shall be avoided.
- (H) Proposed streets shall be adjacent to the contours of the land so as to produce reasonable gradient and more desirable building sites.
- (I) Lands abutting principal thoroughfares should be platted with the view to making the lots, if for residential use, desirable for such use by cushioning the impact of heavy traffic on such lots; and with the view, also, to minimizing interference with traffic on such traffic ways as well as the accident hazard. This may be accomplished in several ways, the choice depending on topography and other physical conditions, the character of existing and contemplated developments, and other pertinent factors as indicated below.
 - (1) By platting the lots abutting such traffic ways at generous depth and by providing vehicular access to them by means of either alleys, or service drives in the rear, or frontage access streets next to the thoroughfare, connected therewith at infrequent intervals.

- (2) By not fronting the lots on the thoroughfares but on a minor street paralleling the highway at a distance of a generous lot depth, not be less than two hundred (200) feet. Private driveways in this case would, of course, connect with such minor street.
- (3) By means of a street platted more or less parallel with the highway, six hundred (600) to one thousand (1,000) feet distant there from which loop streets or cul-de-sacs would extend toward the thoroughfare and provide access to the lots backing upon the highway.
- (4) One of the means just described shall be required on all federal numbered highways, and any frontage access streets shall be incorporated as part of the right-of-way of said highway.

§151.612 BLOCK LAYOUT REQUIREMENTS.

Block layout shall be as follows:

- (A) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths except in the case of an interior street paralleling a principal thoroughfare.
- (B) The lengths of blocks shall be such as are appropriate for the locality and the type of development contemplated but normally shall not exceed fifteen hundred (1,500) feet where the average size of lots does not exceed one (1) acre in area.
- (C) In any block over nine hundred (900) feet in length the Commission may require that a crosswalk or pedestrian way, not less than twelve (12) feet wide, be provided, near the center and entirely across such block.
- (D) The number of intersecting streets along highways, thoroughfares, and parkways shall be held to a minimum. Wherever practicable, blocks along such traffic ways shall be not less than one thousand (1,000) feet in length.

§151.613 LOTS.

- (A) Every lot shall abut on a dedicated street.
- (B) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated, and shall conform to the provisions of the Zoning Ordinance. Excessive depth in relation to width shall be avoided. (proportion of 2 ½ to 1 normally shall be considered a maximum).

- (C) Lots for residence purpose should be at least sixty-five (65) feet wide at the building line and corner lots shall be platted wider than interior lots in order to permit conformance with the setback on the side street required by the Zoning Ordinance.
- (D) Double frontage lots should not be platted, except, that where desired along principal thoroughfares lots may face an interior street and back on such thoroughfares; in which case an easement for a planting screen, at least twenty (20) feet wide shall be provided along the back of the lots.
- (E) Side lot lines shall be approximately at right angles to the right-of-way line of the street on which the lot abuts.
- (F) If the subdivision is in the area which the town expects to serve with water and sanitary sewers, or in case (a) the water and sanitary facilities to be provided in the subdivision are to be completed with already available such facilities nearby or (b) the water supply facilities are to be so connected and a complete sanitary sewer system including an approved central water supply system and the aforesaid complete sanitary system both are to be provided by the subdivider, the minimum lot size shall be as stipulated in the Zoning Ordinance.
- (G) Residential lots fronting or abutting on primary thoroughfares and other important traffic ways should have a minimum depth of two hundred (200) feet to permit buildings to be set back a sufficient distance from such traffic ways.
- (H) Lots abutting upon a water course, drainage way, channel, or stream shall be of such additional depth or width as required, to provide an acceptable building site, whose edge shall be the same as the easement dedicated for such water course.

§151.614 EASEMENTS.

- (A) Where alleys are not provided easements for utilities shall be provided. Such easements shall have minimum widths and where located along lot lines, one-half ($\frac{1}{2}$) of the width shall be taken from each lot. Before determining the location of easement the plan shall be discussed with utility officials to assure their proper placing for the installation of such services. At deflection points in these easements, if overhead utility lines are contemplated, additional easements shall be established for pole-line anchors.
- (B) Where a subdivision is traversed by watercourse, drainage way, channel or stream there shall be provided a drainage easement conforming substantially to the line of such watercourse. It shall include an additional area, outside the watercourse, drainage way, channel or stream, of at least fifteen (15) feet wide.

- (C) Where a legal drain traverses a subdivision as defined by the Indiana Drainage Laws, there shall be provided a drainage right-of-way conforming substantially to the line of such drain. It shall include an additional area, outside the drainage way, of seventy-five (75) feet on both sides of the legal drain. The seventy-five (75) feet is to be measured at right angles to the centerline of a tile drain and to be measured at right angles from the existing top edge of each bank of an open drain as determined by the County Surveyor.

§151.615 BUILDING SETBACK LINES.

Building setback lines shall be as required by this Ordinance.

§151.616 PUBLIC OPEN SPACES.

- (A) Where sites or locations for parks, schools, playgrounds, or other public uses proposed in the Comprehensive Plan are located within the subdivision area or where such sites are deemed to be desirable by the Commission, the Commission may request their dedication for such purposes or their reservations for a period of three (3) years following the date of approval of the final plat. In the event the governmental agency concerned passes a resolution expressing its intent to acquire the land so reserved, the reservation period may be extended for an additional one (1) year.
- (B) Failure to acquire said area by voluntary means within the designated time, shall waive the requirements of 151.616(A) above the said area shall thereafter be free of such reservation for public acquisition.

§151.617 NATURAL SURFACE DRAINAGE.

If there is natural surface drainage across the subdivision from adjoining lands, easements of sufficient width shall be provided, and if necessary, drains of sufficient capacity constructed to provide proper drainage of said adjoining tracts for both present use and future development, the size and location to be determined by the Town Manger or County Surveyor, whichever is applicable.

MINIMUM STANDARDS OF IMPROVEMENTS

§151.620 GENERAL CONFORMANCE REQUIREMENTS.

- (A) All of the improvements required under these regulations shall be constructed prior to filing with the Commission of the secondary plat for final approval, in accordance with the specifications and under the supervision of the officials having jurisdiction: or
- (B) In lieu of construction of said improvements as above specified, the subdivider shall furnish a bond which shall run to the county; in an amount determined by the Commission to be sufficient to complete the improvements and installation in compliance with this Ordinance, and be with surety, satisfactory to the Commission- as more fully specified in Section 151.602.

§151.621 MONUMENTS AND MARKERS.

Monuments and markers shall be placed so that the scored or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument is level with the surface of the surrounding ground.

- (A) Monuments shall be set as follows:
 - (1) At the intersection of all lines forming angles in the boundary of the subdivision;
 - (2) At or near the intersection of street right-of-way lines.
- (B) Markers shall be set as follows:
 - (1) At the beginning and ending of all curves along street property lines;
 - (2) At all points where lot lines intersect curves, either front or rear;
 - (3) At all angles in property lines of lots;
 - (4) At all other lot corners.
- (C) Monuments shall be of concrete or stone with a minimum size of four (4) inches by four (4) inches by three (3) feet, and shall be marked on top either with an iron or copper dowel set flush with the top of the monument. Markers shall consist of iron pipes or steel bars at least three (3) feet long, and not less than one (1) inch in diameter.

§151.622 STREETS.

Streets and alleys shall be completed to grades shown on plan profiles and cross-sections prepared by the subdivider and approved by the Commission. All street plans must conform to the requirements in Sections 151.640 through 151.653 or 151.660 through 151.692.

§151.623 SEWERS.

- (A) The subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with a sanitary sewer outlet approved by the Town, except that when such approved outlet is not available the following method of sewage disposal may be used:
 - (1) A complete sanitary sewer system to convey the sewage to a treatment plant to be provided by the subdivider in accordance with minimum requirements of the State Board of Health. When a sanitary sewer system is installed it shall include all laterals and service sewers to the property line of lots to be served;

§151.624 SEPTIC SYSTEMS.

- (A) In the event a public system is not available, a private sewage disposal systems may be used on individual lots, consisting of a septic tank and tile absorption field or other approved sewage disposal system, when laid out in accordance with minimum standards of the Wayne County Health Department.
- (B) The plans for the installation of a sanitary system shall be prepared by the subdivider and approved by the State Board of Health, and the plans for such a system as built shall be filed with the Commissioners. In case percolation tests are required by the Health Department, they shall be conducted according to his instructions and at the subdivider's expense.

§151.625 WATER.

- (A) The subdivider shall provide a complete water main supply system, which shall be connected to the municipal water supply approved by the Town; except, that when such municipal supply is not available the subdivider shall provide an individual water supply on each lot in the subdivision.
- (B) The plans for the installation of a water main supply system shall be prepared by the subdivider and approved by the Town, when applicable. Upon the completion of the water supply installation, the plans for such system as built shall be filed with the Town.

§151.626 STORM DRAINAGE.

- (A) The subdivider shall provide an adequate storm water system whenever curb and gutter is installed and/or when the evidence available to the Commission indicates that the natural surface drainage is inadequate. When the natural surface drainage is deemed adequate, easements shall be provided for surface drainage, unless curb and gutter and storm water sewers are installed.
- (B) The phrase “the subdivider shall provide” shall be interpreted to mean that the subdivider shall install the facility referred to, or that the subdivider shall require, as a condition of the sale of each lot or parcel in the subdivision, that the facilities referred to in these paragraphs shall be installed by the owner of the lots in accordance with these regulations.

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INCORPORATED AREA SPECIFIC REQUIREMENTS

The following are the specific requirements for street, alley and easement improvements in the incorporated jurisdictional area.

§151.640 STREETS.

- (A) The street and alley layout shall provide adequate vehicular and pedestrian access to all lots and parcels of land within the subdivision, and where streets cross other streets, jogs shall not be created.
- (B) Streets shall conform to the following principles and standards.
 - (1) Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.
 - (2) Residential streets systems shall be designed to minimize through-traffic movement, but certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity.
 - (3) Wherever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivision, the remainder of the street or alley to the prescribed width shall be platted within the proposed subdivision.
 - (4) Residential street patterns shall provide reasonable direct access to the primary circulation system.
 - (5) Local circulation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.
 - (6) Widths of arterial streets and feeder streets shall conform to the widths set forth in the thoroughfare plan.
 - (7) The minimum right-of-way of residential streets or cul-de-sacs shall be 50 feet. All cul-de-sacs shall terminate in a circular right-of-way with a minimum diameter of 100 feet, or other arrangements for the turning of all vehicles conveniently within the right-of-way, and shall not exceed 600 feet in length.
 - (8) Alleys shall be discouraged in residential districts but should be included in commercial and industrial areas where needed for loading and unloading or access purposes, and where platted shall be at least 20 feet in width.

- (9) The centerlines of streets should intersect as nearly at right angles as possible.
- (10) At intersections of street and alleys, property line corners shall be rounded by arcs of at least 20 feet radii or by chords of the arcs.
- (11) At intersections of streets, arcs shall round the property line corners with radii of not less than 15 feet, or by chord of the arcs.
- (12) If the smaller angle of intersection of two streets is less than 60 degrees, the radius of the arc at the intersection of property lines shall be increase as deemed advisable by the Commission.
- (13) Intersections of more than two streets at one point shall be avoided.
- (14) Street jogs with centerline offsets of less than 125 feet shall not be permitted.
- (15) Where parkways or special types of streets are involved, the Commission may apply special standards to be followed in their design.
- (16) Whenever the proposed subdivision contains or is adjacent to a railroad right-of-way or main thoroughfare, provision should be made for a marginal access street or a parallel street adjacent to the railroad right-of-way or major thoroughfare. As a general principle, intersections of marginal access streets or parallel streets shall not exist at less than one-quarter-mile intervals with major thoroughfares.
- (17) Only one street, driveway, or point of vehicle access shall be permitted from a subdivision onto an arterial street or road. Two or more streets, driveways, or points of vehicle access may be permitted by the Commission only if they are definitely needed to improve the safety and traffic circulation in the area, or are required because of the large size of a subdivision.
- (18) Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with other requirements of these regulations; and where the Commission finds it will be proper to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract.
- (19) A temporarily dead-end street shall be permitted is any case in which a street is proposed to be and should logically be extended but is not yet constructed.

- (a) An adequate easement for a turn-around shall be provided for any temporary dead-end street, which extend 200 feet or more in length.
 - (b) The easement shall be automatically vacated to abutting property owners when the dead-end street is legally extended.
- (20) In subdivisions that adjoin or include existing streets that do not conform to the minimum right-of-way dimensions as established by the thoroughfare plan, the subdivider shall dedicate additional width along either one or both sides of the streets of inadequate width so as to bring them up to standards, provided the area to be used for widening is owned by the subdivider or under his or her control.
- (21) Horizontal visibility on curved streets and vertical visibility on all streets must be maintained along the centerlines as follows:
 - (a) Primary and arterial thoroughfares – 500 feet;
 - (b) Secondary arterial thoroughfares – 300 feet; and
 - (c) Feeder streets and residential streets – 150 feet.
- (22) Curvature measure along the centerline shall have a minimum radius as follows:
 - (a) Primary and arterial thoroughfares – 500 feet;
 - (b) Secondary arterial thoroughfares – 300 feet;
 - (c) Feeder streets – 200 feet; and
 - (d) Residential streets – 100 feet.
- (23) Between reversed curves on arterial streets there shall be a tangent of not less than 100 feet, and on feeder and residential streets the tangent shall be not less than 40 feet.
- (24) Maximum grades for street shall be as follows:
 - (a) Arterial streets – not greater than 6%; and
 - (b) Feeder streets, residential streets, and alleys – not greater than 8%.
 - (c) The minimum grade of any street gutter shall not be less than 0.3%
- (25) No street names may be used which will duplicate, or be confused with, the names of existing streets, unless for special reasons to be considered as exceptions by the Commission. The streets, which are logical extensions or continuations of, or obviously in alignment with, any existing street, either constructed or appearing on any validly recorded plat, shall bear the names of the existing streets.
- (26) The following divisions shall be required as a provision of the restrictive covenants of all record plats to which they apply.

- (a) No fence, wall, hedge, tree, or shrub planting which obstructs sight lines and elevations between three and 12 feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points 40 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.
- (b) The same sight line limitations shall apply to any lot within ten feet of the intersection of a street right-of-way line with the edge of the driveway pavement or alley line. No driveway shall be located within 75 feet of the intersection of two street lines.

§151.641 BLOCK STANDARDS.

- (A) Block length and width or acreage within bounding streets shall be such as to accommodate the size of lot required in the area by Chapter 151 and to provide for convenient access, circulation control, and safety of street traffic. Blocks that are unreasonably large or small will not be approved.
- (B) The maximum block length shall be 1,200 feet. In the design of blocks longer than 800 feet, the Commission may specify the provision of pedestrian crosswalks near the center, or wherever most useful to facilitate pedestrians' circulation to a school, park, recreation area, shopping center, or other significant neighborhood destination.
- (C) Residential blocks shall be of sufficient depth to accommodate two tiers of lots of minimum depth, except where reverse frontage lots bordering a freeway, arterial street, or flood plain are used.

§151.642 LOT STANDARDS.

- (A) Subdivision lots shall be adequate for the type of development and land use proposed, and shall be in conformity with zoning provisions applicable thereto, provided that the area of the lots shall meet the criteria set forth by the Health Officer.
- (B) The lot size, width, depth, shape, grade location, and orientation shall be in proper relation to street and block design and to existing and proposed topographical conditions.
- (C) All lots shall abut on a street or place.
- (D) Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets.

- (1) Some variation from this rule is permissible, but pointed or very irregular lots should be avoided.
 - (2) Double frontage lots should not be platted, except that, where desired along no access streets or arterial streets, lots may face on an interior street and back on the thoroughfares. In the event, a planting screen, at least 20 feet in width, shall be provided along the back of each lot.
- (E) The depth to width ration of any single-family residential lot shall be greater than 3:1.
 - (F) Building lines shall conform to the front yard provisions of Chapter 151, or as directed by the Commission.
 - (G) Corner lots shall be sufficiently larger than interior lots to allow maintenance of building lines on both streets.
 - (H) Wherever possible, unit shopping centers, based upon sound development standards, should be designed in contrast to the platting of lots for individual commercial use.
 - (I) Lots abutting a watercourse, drainage way, channel, or stream shall have additional minimum width or depth as required to provide an adequate building site and afford the minimum usable area required by Chapter 151 for front, rear, and side yards.

§151.643 EASEMENTS.

- (A) Adequate areas of suitable size and location shall be allocated for utility easements.
 - (1) As a general principle, easements shall be at least 20 feet in width, shall provide reasonable continuity from block to block, and shall be located at rear lot lines and along side and front lot lines when deemed necessary; and where located along lot line, one-half the width shall be taken from each lot.
 - (2) In the case of lots extending to the boundary of the lands platted and not adjoining another plat, the full width of the easement shall be provided on these peripheral lots.
 - (3) Before determining the location of easements, the plan shall be discussed with the Town Utilities Superintendent and local public utility companies to assure their proper placing for the installation of these services.

- (B) Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, adequate areas for storm water or drainage easements shall be allocated for the purpose of widening, deepening, sloping, improving, or protecting the watercourses.
- (C) Wherever practicable, the subdivider shall be encouraged to design for the placement of utility lines underground, following the required standards and specifications established by the Town Utilities Superintendent and each utility company. The location of each underground utility system shall be shown by appropriate easement lines on the proposed lot

§151.644 STREETS.

- (A) Streets (and alleys, where provided) shall be completed to grades shown on plans, profiles, and cross-sections provided by the subdivider, prepared by a registered surveyor and/or engineer, and approved by the Commission.
- (B) The streets shall be graded, surfaced, and improved to the dimensions required by the cross-sections and the work shall be performed in the manner prescribed in the standard specifications of the town.
- (C) Improvement for streets shall be performed to meet the following minimum standards and requirements.
 - (1) Paved surface dimensions.
 - (a) Residential street:
 - (1) Width with curb and gutter – 31 feet back to back of curb;
 - (2) Terminus diameter on cul-de-sac – 60 feet; and
 - (3) Radius at intersection – 35 feet.
 - (b) Feeder street and arterial streets:
 - (1) Width with curb and gutter - 36 feet back to back of curb; and
 - (2) Radius at intersection - 35 feet.
 - (3) Alleys shall be surfaced to a minimum width of 20 feet.

§151.645 CURB AND GUTTER.

- (A) The Commission shall require curb and gutter to be installed on each side of the street surface.
- (B) The curb and gutter shall be constructed according to the standard specifications of the town.

§151.646 STORM DRAINAGE.

- (A) A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part; the system shall be constructed and installed in accordance with the standard specifications of the town.
- (B) In designing a drainage system, the subdivider shall be guided by the following standards.
 - (1) All streets shall be provided with as adequate storm drainage system consisting of curbs, gutter, and storm sewers.
 - (2) Street drainage shall serve as the primary drainage system and it shall be designed to carry at least the street, adjacent land, and house storm water drainage.
 - (3) Whenever the evidence available to the Commission indicates the natural surface drainage is inadequate, the subdivider shall provide the subdivision with an adequate storm water sewer system. When the surface drainage is adequate, easement for the surface drainage shall be provided
- (C) In order to ensure the maintenance of a properly designed and installed drainage system, the following divisions shall be required as a provision of the restrictive covenants of all record plats and shall be included in all deeds written relative to the plats; the owner of the lots shall sign and the signed copies of this covenant shall be filed with the Building Commissioner and the County Surveyor.
- (D) Drainage swales (ditches) along dedicated roadway and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled, or otherwise changed without the written permission of the Building Commissioner, or County Surveyor, as the case may be.
 - (1) Property owners must maintain these swales as sodden grassways, or other non-eroding surfaces.
 - (2) Water from roofs of parking areas must be contained on the property long enough so that the drainage swales or ditches will not be damaged by the water.
 - (3) Driveways may be constructed over these swales or ditches only when appropriate-sized culverts or other approve structures have been permitted by the Building Commissioner.

- (4) Culverts must be protected, especially at the ends, by head walls or metal end sections, and, if damaged enough to retard the water flow, must be replaced.
- (E) Any property owner altering, changing, or damaging drainage swales or ditches will be held responsible for his or her action and will be given ten-days' notice by registered mail to repair the damage, after which time, if no action is taken, the Building Commissioner or County Surveyor, as the case may be, will cause the repairs to be accomplished, and the bill for the repairs will be sent to the affected property owners for immediate payment.

§151.647 SANITARY SEWAGE DISPOSAL.

- (A) The subdivider shall provide the subdivision with a complete sanitary sewer system, which shall connect with an existing approved sanitary sewer outlet, except that when an approved outlet is not available, one of the following methods of sewage disposal shall be used.
 - (1) A complete community sanitary sewage collection system to convey the sewage to a treatment plant, to be provided by the subdivider in accordance with the minimum requirements of the Health Officer and the standard specifications of the town.
 - (2) If the Town Council or Health Officer determines that it is impracticable and inadvisable to install a community sanitary sewage collection system with required treatment, the Health Officer may permit the subdivider to provide a private sewage disposal system on individual lots consisting of a septic tank and tile absorption field or other approved sewage disposal system, when laid out in accordance with the minimum standards and requirements of the Health Officer.
- (B) The plans for the installation of a sanitary sewer system shall be provided by the subdivider, the Town Council, and the Health Officer. Upon the completion of the sanitary sewer installation, the plans for the system as built shall be filed with the Commission.

§151.648 WATER.

- (A) The Subdivider shall provide the subdivision with a complete water main supply system, which shall be connected to an existing approved municipal or community water supply, except that when the municipal or community water supply is not available, the subdivider shall provide one of the following:

- (1) A complete community water supply system to be provided in accordance with the minimum requirements of the Health Officer, and the standards specifications of the town; or
 - (2) An individual water supply on each lot in the subdivision in accordance with the minimum requirements of the Health Officer.
- (B) The plans for the installation of the water main supply system shall be provided by the subdivider and approved by the Health Officer. Upon completion of the water supply installation, the plans for the system as built shall be filed with the Commission.

§151.649 SIDEWALKS.

- (A) The Commission shall require the subdivider to install sidewalks on each side of an arterial or feeder street classified in the thoroughfare plan; on streets which are proposed to be extensions of streets already having sidewalks on either one or both sides; in a subdivision proposed to contain an average of more than two lots per gross acre; and on streets in the vicinity of schools or other public buildings which in the Commission's judgment, would be necessary for the safety and welfare of pedestrians.
- (B) If sidewalks are provided, they shall be constructed of portland cement concrete, in accordance with the minimum requirements of the standard specification of the town, and at least four inches thick, four feet wide, and the edge of walks adjacent to the property line of the street placed at least one foot from the property line.
- (C) If sidewalks are not provided, the street grade shall be completed so that additional grading would not be necessary for any future provision of sidewalks.
- (D) Crosswalks within blocks, when required by the Commission shall be improved with a four-foot walk of portland cement concrete or asphaltic four inches thick.

§151.650 STREET IDENTIFICATION SIGNS.

- (A) It shall be the responsibility of the subdivider to provide and install street identification signs at all street intersections within the subdivision prior to the construction of any permanent improvements, other than those specifically set forth in this chapter.
- (B) The signs and posts shall conform to the standard specification of the town or of the specification of Wayne County, as the case may be, or be of a design approved by the Commission after appropriate consideration of future maintenance.

§151.651 STREET TREES.

- (A) The subdivider shall provide the subdivision with street trees, such as white oak or sweet maple, planted at intervals of 40 feet to 60 feet between street intersections and on both sides of each street. The position, type, and size of the trees in the street shall be determined by the Commission.

§151.652 STREETLIGHTS AND FIRE HYDRANTS.

- (A) The subdivider shall provide the subdivision with streetlights and fire hydrants, the quantity and type of which will be determined by the Building Commissioner and Utilities Superintendent.
- (B) The subdivider shall provide the subdivision with streetlights and fire hydrants at street intersections and at any other locations the above officials may direct.

§151.653 IMPROVEMENT CREDIT PROCEDURE.

- (A) The improvements required to be installed by the subdivider which are of a public utility nature, specifically, may provide benefits to other properties in the vicinity of land to be subdivide.
- (B) Upon the installation of these improvements which cross or adjoin other properties, the subdivider and the Town Council or the Wayne County Board of County Commissioners, as the case may be, may by contract agree that upon the connection or use of the installation made by the subdivider by others, within a period of 15 years following their installation, the new user or users shall pay to the town or Wayne County, as the case may be, a fee in an amount agreed upon by the subdivider and the Town Council or County Commissioners, the amount of the fee to be credited to and paid to the subdivider.

UNINCORPORATED AREA SPECIFIC REQUIREMENTS

The following are the specific requirements for street, alley and easement improvements in the unincorporated jurisdictional area.

§151.660 MINIMUM RIGHT-OF-WAY WIDTHS OF STREETS, ALLEYS AND EASEMENTS FOR UTILITIES.

- (A) Primary thoroughfare, not less than eighty (80) feet in any case.
- (B) Secondary thoroughfares not less than sixty (60) feet in any case.
- (C) Collector streets – sixty (60) feet.
- (D) Minor street – fifty (50) feet. All cul-de-sacs shall terminate in a circular right-of-way with a minimum diameter of one hundred (100) feet.
- (E) Alleys – twenty (20) feet.
- (F) Easements for utilities along rear or side lot lines for utilities – fifteen (15) feet.
- (G) In business or manufacturing subdivision the above minimum right-of-way widths of streets and alleys shall be increased in accordance with requirements of the Plan Commission.

§151.6161 MINIMUM PAVEMENT WIDTHS.

- (A) Minimum pavement widths, face to face of curb, required to be installed at the subdivider's expense shall be as follows:
 - (1) Primary and secondary thoroughfares and parkways forty-four (44) feet;
 - (2) Collector streets – thirty-six (36) feet;
 - (3) Minor streets – twenty-eight (28) feet; for distance from back of curb to back of curb using an integral curb and gutter add 1' – 6' to each side.
 - (4) The pavement of a turning circle at the end of a cul-de-sac street has a minimum outside diameter of eighty (80) feet.
 - (5) Alleys – full width of the right-of-way twenty (20) feet.

- (B) All minor street pavements without curb and gutter shall be twenty-four (24) feet minimum width.

§151.662 STREET GRADES, CURVES AND SIGHT DISTANCES.

- (A) The grades of streets shall be not less than one-half of one (0.5) percent and shall not exceed the following:
 - (1) Primary thoroughfares – four (4) percent;
 - (2) Secondary thoroughfares and parkways – six (6) percent;
 - (3) Collector streets – Eight (8) percent;
 - (4) Minor streets and alleys – ten (10) percent;
 - (5) Pedestrian ways or crosswalks – twelve (12) percent unless steps of an acceptable design are to be constructed.
- (B) All changes in street grades above one (1) percent shall be connected by vertical curves of a minimum length in feet equal to eighty (80) time the algebraic difference in the rate of grade for thoroughfares and parkways, and one-half of this minimum for all other streets.
- (C) The radii of curvature on the center line shall not be less than the following:
 - (1) Primary and secondary thoroughfares – five hundred (500) feet;
 - (2) Collector streets – two hundred (200) feet;
 - (3) Minor streets – one hundred (100) feet;
 - (4) The tangent distance between reverse curves shall be a minimum of one hundred (100) feet.

§151.663 INTERSECTIONS.

- (A) At street and alley intersections property line corners shall be rounded by an arc, the minimum radius of which shall be twenty (20) and ten (10) feet respectively. In business districts a chord may be substituted for such arc.
- (B) Minor street intersections shall be rounded by radii of at least twenty (20) feet.

- (C) Intersections involving primary and secondary thoroughfares, parkways and collector streets shall be rounded by radii of at least thirty-five (35) feet.
- (D) The above minimum radii shall be increased when the smallest angle of intersection is less than ninety (90) degrees.

§151.664 CURB AND GUTTER.

Whenever a proposed subdivision lies adjacent to or between other subdivisions which have been provided with curb and gutter, or wherever the proposed subdivision will have lots averaging twenty thousand (20,000) square feet or less in area, the Commission shall require curb and gutter to be installed on each side of the street. The curb and gutter shall be of one of the construction types approved by the County Highway Engineer or the Town Manger, whichever is applicable.

§151.665 DEAD END STREETS CUL-DE-SAC.

DEAD-END STREETS

- (A) All dead-ended streets not meeting the definition of a cul-de-sac in the Subdivision Regulations shall be considered as temporarily dead-ended.
- (B) Each temporarily dead-ended street shall be terminated by a vehicle turnaround for every case in which such street is proposed to be should logically be extended beyond the plat limits with the following exceptions. A vehicle turnaround will not be required, provided the dead-end street is less than four hundred (400) feet in length or is not abutted by more than two (2) lots on either side of the street with the maximum length of the dead-end street not to exceed four hundred (400) feet.
- (C) An easement right of way of one-hundred (100) feet diameter shall be provided for all such vehicle turnarounds.
- (D) All such vehicle turnarounds shall be construed with seven (7) inches of compacted aggregate base material to an eighty (80) foot diameter and be provided with adequate drainage.

OFF STREET IMPROVEMENTS

§151.670 SIDEWALKS.

Wherever a proposed subdivision lies adjacent to or between other subdivisions that have been provided with sidewalks, the Commission shall require connecting sidewalks on both sides of the streets that are extensions of existing streets having such sidewalks. Sidewalks on each side of a street within a subdivision shall also be required where the lots average twenty thousand (20,000) square feet or less in area. When sidewalks are provided, they shall be constructed of Portland Cement Concrete, at least four (4) inches thick and four (4) feet wide.

§151.671 STREET SIGNS.

The subdivider will pay for all street identification signs and posts, provided, supplied, and installed by the County Highway Department or the Town Street Department, at their costs, at each intersection in the subdivision so that all street signs will conform to the current signs and posts being used by the County Highway Department or the Town Street Department.

§151.672 UNPAVED AREA.

All unpaved areas within a dedicated street right-of-way shall be graded and seeded or sodden in accordance with the Town or County standards and specifications, whichever is applicable.

§151.673 STREET PLANS.

Construction plans, including the following, for improvements to be installed, shall be furnished in accordance with the specifications of the County Engineer, or Town Manager, i.e., the official having jurisdiction, and shall receive approval of these officials before improvements are installed.

- (A) The profile of each proposed street, with tentative grades indicated;
- (B) The cross-section of each proposed street, showing the width of pavement, the location and width of sidewalks and the location and size of utility mains;
- (C) The plans and profiles of proposed sanitary sewers and storm water sewers, with grades and sizes indicated, or method of sewage or storm water disposal in lieu of sewers;

- (D) A plan of the proposed water distribution system, showing pipe sizes and the location of valves and fire hydrants.

STREET CONSTRUCTION STANDARDS

MINIMUM STREET CONSTRUCTION SPECIFICATIONS.

§151.680 INSPECTION.

The County Engineer or Town Manager, whichever applicable, shall be notified by the subdivider forty-eight (48) hours in advance of the starting date of any work on the proposed improvements. All material delivered to the job shall be subject to inspection at the source and/or site, and may be rejected at either location. Final acceptance of the work rests with the County Engineer or Town Manager, whichever applicable, and the performance bond shall be retained in full effect until the acceptance of the work is made officially. All inspection of materials and work shall be made at the expense of the owner or subdivider.

§151.681 INTENT.

The intent of these “Minimum Specifications” is to provide procedures, regulations, and specifications necessary for the inclusion of “right-of-way” into the Wayne County or Hagerstown highway system, said “right-of-way” to be dedicated to the public use, which affords the means of access to abutting property.

§151.682 SPECIAL PROVISIONS.

Specifications for material, construction and maintenance are “Indiana Department of Highways Standard Specifications” dated 1988 or any subsequent amendments thereto and any subsequent County ordinance, Wayne County Highway directive, Town ordinance or Hagerstown Street Department directive, whichever applicable. If a conflict arises concerning material, construction and maintenance specifications, the most restrictive specification shall prevail.

§151.683 STREET CONSTRUCTION INSPECTION.

- (A) The interest of the Town and the County is to secure adequately constructed and good quality streets for their future administration and maintenance; the subdivider and/or any of his agents shall permit and cooperate in the inspection of any part of the construction at any time by the County Highway Engineer, Town Manager or their assigned inspector.

(C) Joint requirements are as follows:

- (1) Transverse contraction joints (pre-molded strip or sawed) shall be place at distances not to exceed twenty (20) feet.
- (2) Transverse expansion joints shall be place at intersections where the new slab abuts old slabs, and where indicated on the approved plans.
- (3) Longitudinal construction joints shall be place in all pavements more than one traffic lane in width.
- (4) No two transverse joints of any kind shall be permitted within ten (10) feet of one another.

(D) Consolidation, finishing and strike-off:

- (1) The batches shall be deposited so as to require as little rehandling as possible, but necessary hand spreading shall be done with shovels not with rakes.
- (2) After the concrete has been deposited it shall be compacted, leveled, and finished by approved methods. Competent concrete finishers shall be employed at all times to finish, test, and check the pavement surface. The finished surface shall be free from porous spots, irregularities, and depression pockets or rough spots.
- (3) The sequence of operation shall be: consolidation and strike-off, longitudinal floating, checking and removal, and final finish and curing.

(E) Curing pavement provision shall be made for maintaining concrete in a moist condition for four (4) days. In lieu of moist curing, an improved impervious membrane cure may be used.

§151.688 HOT ASPHALTIC CONCRETE PAVEMENTS.

Any specification for materials, construction, and maintenance under this Section has been developed from the 1999 Indiana Department of Highway Standard Specifications and any amendment thereto, by any subsequent ordinance passed by the Wayne County Commissioners, the Town of Hagerstown, by Wayne County Highway Department or Hagerstown Street Department directives, whichever applicable. If a conflict arises, the more restrictive specification shall prevail.

The following sub-headings shall be considered integral parts of this type of pavement.

- (A) Compacted Aggregate Base: This item shall consist of a foundation course of compacted dense-graded aggregate placed in layers not to exceed four (4) inches on a prepared subgrade in compliance with these specifications, except that calcium chloride will not be required.
- (B) HMA Base: This term shall consist of a hot mixed, hot laid asphaltic concrete base course.
- (C) HMA Intermediate: This term shall consist of a hot mixed, hot laid asphaltic concrete binder course.
- (D) HMA Surface: This term shall consist of a hot mixed, hot laid asphaltic concrete constructed as a medium-texture course.
- (E) Pavement Types:
 - (1) Type I pavement construction shall be required for primary and secondary thoroughfares. Type I pavement shall have a one hundred ten (110) pound per square yard surface course, a five hundred fifty (550) pound per square yard base course, and an eight (8) inch compacted aggregate base.
 - (2) Type II pavement construction shall be required for collector streets. Type II pavement shall have a one hundred ten (110) pound per square yard surface course, a four hundred forty (440) pound per square yard base course, and an eight (8) inch compacted aggregate base.
 - (3) Type III pavement construction shall be required for minor streets. Type III pavement shall have a one hundred ten (110) pound per square yard surface course, a three hundred thirty (330) pound per square yard base course or binder course, and an eight (8) inch compacted aggregate base.

§151.689 CURBS AND GUTTERS.

Cement concrete curbs and gutters shall consist of plain concrete curb, integral curb, or combined curb and gutter in conformance with applicable provisions these specifications. Every cubic yard of concrete in place shall contain no less than 564 pounds of cement.

§151.690 CEMENT CONCRETE SIDEWALKS.

This item consists of four (4) foot wide by four (4) inch deep sidewalks constructed on a prepared subgrade in conformance with applicable provisions of these specifications. Every cubic yard of concrete in place shall contain no less than 564 pounds of cement. When completed the sidewalk shall be cured for less than 96 hours.

§151.691 FINISHING SHOULDERS, DITCHES AND SLOPES.

This item consists of the final shaping, dressing and protection from erosion of shoulders, ditches and slopes in conformance with the cross sections.

- (A) In general, all shoulders, side slopes, and ditches shall be protected from erosion by seeding and mulching as soon as possible after construction.
 - (1) Apply fertilizer as determined by soil tests or at the minimum rate of 1,000 pounds of 12-12-12 fertilizer (or its equivalent) per acre.
 - (2) The amount of pure live seed per acre shall be: Thirty-five (35) pounds of tall fescue or twenty (20) pounds of bluegrass with (20) pounds of creeping red fescue, and a nurse crop of one (1) bushel of oats, rye, or wheat.
 - (3) Work in fertilizer two (2) inches deep where possible and seed grass one-quarter ($\frac{1}{4}$) inch deep by firming or compacting the soil.
 - (4) Mulch areas with straw or suitable materials at a rate of one and one-half ($1 \frac{1}{2}$) tons per acre. Site conditions may require mulch to be anchored.
- (B) Earthen ditches, side slopes shall be no steeper than 2:1.
- (C) All ditches flow lines having grades in excess of five (5) percent shall have a concrete paved side ditch or a hand laid stone rip rap side ditch as detailed in the proposal. In general those special cases of erosion not heretofore covered shall be controlled by riprap and slopewall.
- (D) All unpaved areas between the edge of the road pavement and the right-of-way line must support an adequate sod before the release of the three year maintenance bond can be made.

§151.692 STREET SIGNS.

- (A) The installation of street identification signs shall conform to the current signs being used by the County Highway Department or the Hagerstown Street Department, whichever applicable. In order to have clarity and uniformity, the County Highway Department or the Hagerstown Street Department, whichever applicable, will furnish and install said signs at their costs, said costs will be paid by the developer prior to the final acceptance of any street.
- (B) In the event that subsequent action by the County or Town, whichever applicable, modifies the procedure to allow for private installation of street signs, then the developer must install the street signs according to the specifications adopted by the County or Town, whichever applicable.

MODIFICATIONS

§151.700 MODIFICATIONS.

- (A) The general principles of design and the minimum requirements for the laying out of subdivisions may be varied by the Commission at the time of platting, in the case of a subdivision large enough (50 lots) or more to constitute a more or less self-contained neighborhood to be developed in accordance with a comprehensive plan safeguarded by appropriate restrictions, which in the judgment of the Commission make adequate provision for all essential community requirements. Provided, however, that no modification shall be granted by the Commission which would conflict with the proposals of the Town's Comprehensive Plan, or with the intent and purpose of the general principles of design found herein.
- (B) In granting modifications, the Plan Commission may require such conditions that will, in its judgment, secure substantially the objectives of the standards or requirements so modified.
- (C) Any modification thus granted shall be entered in the minutes of the Commission setting forth the reasons that, in the opinion of the Commission, justified the modification.

VARIANCES

§151.710 VARIANCE.

- (A) In any particular case where the subdivider can show that, by reason of exceptional topographic or other physical conditions strict compliance with any requirements of these regulations would cause practical difficulty or exceptional or undue hardship, the Commission may at time of platting relax such requirements to the extent deemed just and proper, so as to relieve such difficulty or hardship; provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of these regulations or the desirable general development of the neighborhood and the community in accordance with the Comprehensive Plan and the Zoning Ordinance.

§151.712 CONDITIONS TO VARIANCE.

In granting variances, the Plan Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied.

§151.713 NOTATION OF VARIANCE.

Any variance, thus granted, shall be entered in the minutes of the Commission setting forth the reasons which, in the opinion of the Commission, justified the modification, and shall be noted on the face of the plat.

§151.714 VARIANCE AFTER PLATTING.

The Board of Zoning Appeal shall have sole jurisdiction over any variance to a plat after it has been granted secondary approval.

TEMPORARY MODEL HOME

§151.720 TEMPORARY PERMIT MODEL HOME.

Whenever a subdivision has received primary approval by the Plan Commission, the Commission may authorize the issuance of temporary building permits for the construction of two (2) model homes to be used for display only. There shall not be any residential use of the model homes until the plat of the subdivision has received secondary approval by the Commission.

UNIT DEVELOPMENT PROJECTS

ESTABLISHMENT OF UNIT DEVELOPMENT PROJECTS

§151.730 CREATION AND EFFECT

The Hagerstown Town Council may, by ordinance, establish development plan or planned unit development requirements for a described tract of real estate. The procedure for establishing these districts is the same as that for the amendment of the zone map.

§151.731 COMMERCIAL UNIT DEVELOPMENT/ESTABLISHMENT

A Commercial Unit Development Project may be established provided the tract of land is located in any commercial zone district.

§151.732 RESIDENTIAL UNIT DEVELOPMENT/ ESTABLISHMENT

A Residential Unit Development Project may be established provided it is located in any Residential Zone District.

§151.733 COMMUNITY UNIT DEVELOPMENT/ ESTABLISHMENT

A Community Unit Development Project may be established provided the tract of land is located in such part of any A or R-District where public water supply and sanitary sewer facilities are available, and provided it abuts and has access from a Federal or State Highway or a principal thoroughfare.

§151.734 INDUSTRIAL UNIT DEVELOPMENT/ ESTABLISHMENT

An Industrial Unit Development Project may be established provided the tract of land is located in an Industrial Zone District

§151.735 SINGLE DISTRICT UNIT

The established Unit Development District may be imposed as an addition to a single tract of land with one zoning district for the entire tract. (As an example it could be A-1-DP or A-1-PUD district.)

§151.736 OVERLAY MULTIPLE DISTRICT UNIT

The Unit Development District may also be imposed over a tract of land, which has more than one zoning classification in which event this “overlay district” would be in addition to

each of the zoning districts in the tract. (For example, there could be A-1-DP and B-1-DP, all in the same ordinance for the same tract.)

§151.737 EFFECT OF THE UNIT DEVELOPMENT

After the imposition of the Unit Development District, the land will then be subject to all of the basic requirements of the primary zoning district plus any of the conditions that are imposed by reason of the development plan or PUD.

§151.738 VARIANCE REQUIREMENTS

The Unit Development Ordinance may in addition to imposing additional standards, vary or waive certain of the standards of the sub-district including the permission of a different zoning classification of up to 20 percent of the real estate included in the development plan.

§151.739 ADDITIONAL REQUIREMENTS

In addition to the foregoing, the Commission may impose such other conditions, requirements or limitations concerning the design, development and operation of such Development Unit Projects as it may deem necessary for the protection of adjacent properties and the public interest.

GENERAL REQUIREMENTS

§151.740 GENERAL REQUIREMENTS

The specific development plan or planned unit development requirements shall include the following standards, which must be met and must be included in any development plan.

§151.741 REQUIRED COMPONENTS

The Development Plan or Planned Unit Development shall:

- (A) Be consistent with the Comprehensive Master Plan;
- (B) Not adversely affect neighboring property;
- (C) Meet all the requirements of the zoning ordinance, unless specifically varied or waived.
- (D) Be subject to all conditions on the approval, which are imposed.

- (E) Satisfy any requirement of written assurances or financial responsibility to assure the completion of proposed improvement.

§151.742 PERMITTED ADDITIONAL COMPONENTS

In addition to these minimum standards, it is permissible for the ordinance to impose standards relative to the following requirements:

- (A) Zoning Requirements: Prior to submitting any request for Development Unit Projects the tract of land shall be in the proper zone classification for the proposed project.
- (B) Area and Yard Requirements: Development Unit Projects shall comply with all area and yard requirements prescribed herein.
- (C) That the proposed Development Unit Project is at a location where traffic congestion does not exist at present on the streets to be utilized in conjunction therewith, and where undue congestion will not likely be created as a result of the project.
- (D) That the Development Unit Project provides for integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, off-street parking and loading, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from standpoint of the developer as well as from standpoint of the adjoining or surrounding existing or potential developments.
- (E) The streets within the Development Unit Project shall be paved according to the Town's specifications, maintained in good condition and lighted at night. The minimum roadway width is determined by the Town.
- (F) The Development Unit Project shall be started within one (1) year of the approval.

PROCEDURE

§151.750 PROCEDURE FOR DEVELOPMENT

The procedure for development, once the ordinance has been imposed on the land, will be identical to that procedure imposed for a subdivision and will be administered by the Plan Commission. The original creation of the Unit Development District may only be done by ordinance, but thereafter the subdivision procedures and rules relative thereto will prevail in the administration and approval of the districts, where applicable.

§151.751 SUBMISSION OF PLANS

An application for a Development Unit Project shall be filed with the Plan Administrator and must be accompanied by scale drawings certified by a registered engineer or surveyor. Such drawings shall contain the following information:

- (A) Accurate dimensions of the Development Unit Project.
- (B) Topographic data. (a) U.S. Geological Survey topographic data may be used. (b) Water courses, marshes, wooded areas, and other natural or man-made features which would affect the Development Unit Project.
- (C) Streets and right-of-way on or adjoining the site, including dedicated right-of-way widths, roadway widths, approximate gradients, types and widths of pavements, curbs, sidewalks or other pertinent data.
- (D) A general layout of the proposed structures and related facilities.

§151.752 COMMERCIAL UNIT DEVELOPMENT PROJECT – REQUIREMENTS AND STANDARDS

If the proposed Development Unit Project is for an integrated Commercial Center, the Commission shall be guided by the following requirements and standards:

- (A) The minimum site area for a neighborhood Commercial Development Project shall be five (5) acres and the minimum site area for a Commercial Center larger than the neighborhood type shall not be less than ten (10) acres.
- (B) The permitted uses in the case of a neighborhood Commercial Center shall be those permitted in the C-1 Neighborhood Business District and also a motor vehicle service station, provided at least three (3) other permitted commercial uses have been completed and occupied in the same center; the uses permitted in larger Commercial Centers shall be those in the C-3 General Business District.
- (C) Building height limits shall be the same as prescribed for the zoning district in which the proposed project is located; provided that no building shall be less than fifty (50) feet distant from any boundary of the site of the center.
- (D) The ground area occupied by all the buildings shall not exceed in the aggregate twenty-five (25) percent of the total area of the site.

- (E) Off-street parking and loading spaces shall meet the requirements in Sections 151.520 through 151.526.

§151.753 RESIDENTIAL UNIT DEVELOPMENT PROJECT – REQUIREMENTS AND STANDARDS

If the proposed development is to be a Residential Development Unit Project, the Commission shall be guided by the following requirements and standards:

- (A) The minimum site area for a Residential Development Unit Project shall be determined by the Commission.
- (B) Permitted uses shall be those permitted in the district in which the project is located.
- (C) Building height and density requirements shall be the same as in the district in which the project is located, provided, however, that the minimum lot area per family or dwelling unit otherwise required in the district may be reduced by the Commission by not more than twenty (20) percent when in its opinion justified by superior design and other favorable characteristics or features of the proposed project.
- (D) Yards and courts shall be of such size as to be in concert with and appropriate relative to the requirements in the R-2 Zone District.
- (E) If the project contains twenty (20) acres or more, at least five (5) percent of the acreage of such site shall be developed as a neighborhood playground or playgrounds. If the site contains less than twenty (20) acres, the required area of play lots shall be two thousand (2,000) square feet for the first fifty (50) dwelling units or fraction thereof, plus thirty (30) square feet for each additional dwelling unit in excess of fifty (50). Such recreation areas shall be maintained in good order by the owner of the development.
- (F) There shall be at least one and one-half (1 ½) off-street parking spaces for each dwelling unit. Service drives and other service facilities shall be located entirely within the project site, and all such parking area and related facilities shall be maintained in good order by the owner of the development.

§151.754 RESIDENTIAL UNIT COMMUNITY PROJECT – REQUIREMENTS AND STANDARDS

If the proposed development is to be a residential community unit project, the Commission shall be guided by the following requirements:

- (A) The minimum site area of a residential community unit project shall be one hundred (100) acres; the site shall abut for a distance of not less than one thousand (1,000) feet and have access from a Federal or State Highway, or a principal thoroughfare so designated on the Major Highway Plan, and shall be located in such part of an A or R-District where public water supply and sanitary sewage facilities are available in connection with the proposed development.
- (B) Any of the uses permitted as regulated in the R-2 District, except as stipulated in this Section, provided that the number of dwelling units in such multi-family buildings as are first permitted in the R-2 District may not exceed twenty-five (25) percent of the total number of dwelling units in the entire development project.
- (C) The overall residential density in any community unit project shall not exceed ten (10) dwelling units per gross acre, excluding rights-of-way of public roads.
- (D) The height of one-family homes, two-family, three-family, and four-family dwellings and town houses shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet, and of any other residential buildings six (6) stories or sixty (60) feet.
- (E) Yards and courts for one and two family dwellings and related uses shall be the same as required in the R-2 District.
 - (1) All multi-family dwellings fronting on a collector street shall have a front yard not less than thirty-five (35) feet in depth, and those fronting on a principal or secondary thoroughfare, not less than forty-five (45) feet in depth.
 - (2) The distance between principal buildings, front to front, shall not be less than the sum of the heights of the buildings, but in no case less than eighty (80) feet, and the distance between such buildings, back to back, shall be not less than sixty (60) feet. The distance between buildings in any other relationship to one another shall be not less than thirty (30) feet.
- (F) There shall be provided at least one and one-half (1 ½) off-street parking spaces, in buildings or parking areas, for each dwelling unit in the development project; service drives and other facilities in connection therewith shall be located entirely within the project area, and all such parking areas and related facilities shall be maintained in good order by the owner of the development or a properly constituted neighborhood association.
 - (1) Off-street parking and service facilities for other than residential uses shall meet the requirements in Sections 151.520 through 151.526.

- (G) At least ten (10) percent of the gross area of the project shall be developed and property equipped as playgrounds, parks, or other recreation areas. Such areas and facilities shall be maintained in good order by the owner of the development or by a properly constituted neighborhood association, or, if accepted by the Commission may be dedicated to the Town.
- (H) In case the site of the proposed residential community development project, (a) contains all or a part of a proposed school site, shown on the Master Plan, or (b) when, in the judgment of the Commission, provisions for a school site within the site of the development project is or will be needed to serve the anticipated population – such school site or part thereof shall be conveyed to the School Corporation within whose jurisdiction the site is located.

§151.755 INDUSTRIAL UNIT DEVELOPMENT PROJECT – REQUIREMENTS AND STANDARDS

If the proposed development unit project is for an industrial center, the Commission shall be guided by the following requirements and standards:

- (A) The minimum site area for an industrial unit development shall be five (5) acres.
- (B) The permitted uses in the case of a neighborhood commercial center shall be those permitted in the M-1 and M-2 Zones.
- (C) The building height limits shall be the same as those described in the zoning districts in which the project is located, provided that no building shall be less than fifty (50) feet distance from any boundary of the site of this development.
- (D) The ground area occupied by all of the buildings shall not exceed in the aggregate of fifty percent (50%) of the total area of the site.
- (E) Off-street parking and loading space shall meet the requirements of Sections 151.520 through 151.526
- (F) The Commission may require that in the front yard setbacks along any public road, that appropriate screening and planting may be established as a part of the site plan.
- (G) In establishing an industrial site, the site shall abut for a distance of not less than five hundred (500) feet, and have access to a Federal or State Highway, or principal thoroughfare so designated on the major highway plan. It shall be located where public water and sanitary sewer facilities are available in connection with the proposed

project. If this is not available, then it must provide for its own sewer package system, which is acceptable to the State Regulatory authorities and to the Commission.

- (H) There shall be provided at least one (1) off-street parking spaces for each 300 square foot of the building provided; service drives and other facilities connection therewith shall be located entirely within the project area, and all such parking areas and related facilities shall be maintained in good order by the owner of the industrial development or the industrial building located therein.

SWIMMING POOLS

§151.760 TYPES OF POOLS AND LOCATIONS

(A) Public swimming pools.

- (1) A public pool in any district may not be located within less than two hundred (200) feet of any other lot in any R-district.

(B) Private swimming pools.

- (1) A private pool may be located anywhere on the premises except in required front yards, provided it shall not be located closer than ten (10) feet to any property line of the property on which located; and provided that pump and filter installation shall not be located closer than twenty (20) feet to any such property line.

(C) Farm pond or stock tank.

- (1) A farm pond or stock tank shall not be considered to be a swimming pool; however, if such an installation is used for commercial recreational purposes, then, it shall be classified as a swimming pool.

§151.761 GENERAL REQUIREMENTS

All swimming pools must comply with the following requirements:

- (A) The swimming pool, or the entire property on which it is located, shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties.
- (B) Adequate provision for drainage shall be made subject to approval by the Town.
- (C) Any lighting used to illuminate the pool area shall be so arranged as to deflect the light from adjoining properties.
- (D) No person, firm or corporation shall construct or install a swimming pool or make any alteration thereon or in the appurtenances thereof without having first obtained an Improvement Location Permit for such construction, installation or alteration.

SEXUALLY-ORIENTED BUSINESSES

§151.770 DEFINITIONS.

- (A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“ADULT ARCADE” A commercial establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image-producing machines, for viewing by five or fewer persons per machine at any one time, in which a substantial portion (30% or more) of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of harmful to minors as specified in I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represents or displays sexual conduct as defined in I.C. 35-42-4-4 (and as it may from time to time be amended.)

“ADULT BOOKSTORE, ADULT NOVELTY STORE” or “ADULT VIDEO STORE” A commercial establishment which has a substantial (30% or more) portion of its revenues, floor space, or advertising associated with the sale or rental, for any form of consideration, of any one or more of the following:

- (a) Books, magazines, periodicals or printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMs or other forms of visual or audio representations which meet the definition of harmful to minors under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display sexual conduct as defined in I.C. 35-42-4-4 (and as it may from time to time be amended.); and/or
- (b) Instruments, devices or paraphernalia, which are designed for, use in connection with sexual conduct as defined in I.C. 35-42-4-4 (and as it may from time to time be amended.).

“ADULT CABARET” Nightclub, bar, restaurant, or similar establishment which features live performance(s) which meet the definition of harmful to minors as set forth in I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represents or displays sexual conduct as defined in I.C. 35-42-4-4 to a clientele who pays any form of consideration for the live performance.

“ADULT MOTION PICTURE THEATER” An indoor or outdoor facility with a capacity for six or more persons to view the images projected at any one time in which a substantial portion (30% or more) of its total revenue, in any form of consideration, is derived from

the presentation or which substantial time (30% or more) is devoted to the showing of the material which meets the definition harmful to minor as defined in I.C. 35-49-2-2 (and as it may from time to time be amended) and/or displays sexual conduct as set forth in I.C. 35-42-4-4 (and as it may from time to time be amended.), for observation by patrons.

“ADULT THEATER” A theater, concert hall, auditorium or similar establishment, either indoor or outdoor, which for any form of consideration regularly features live performances, of which a substantial portion (30 % or more) of the total presentation time is distinguished or characterized by an emphasis on activities which meet the definition of harmful to minors as set forth in I.C. 35-49-2-2 and/or sexual conduct as set forth in I.C. 35-42-4-4.

“JUICE BAR”. An adult cabaret which does not serve alcoholic beverages.

“MUNICIPAL PARK OR RECREATIONAL FACILITY” Property owned, leased, or operated, by the town for use as a park or for other recreational activities.

“NUDE MODEL STUDIO” A place where a person who appears in a state of nudity is observed, sketched, drawn, photographed, or is similarly depicted by other persons who pay money or any other form of consideration or the display is characterized by an emphasis on activities which meet the definition of harmful to minors as set forth in I.C. 35-49-2-2 (and as it may from time to time be amended) and/or sexual conduct as set forth in I.C. 35-42-4-4 (and as it may from time to time be amended.). This definition shall not be applied to institutions of higher learning accredited by a nationally recognized accrediting organization.

“NUDITY” The showing of the male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernable turgid state. “BUTTOCK” means either of the two rounded prominences on the human torso that are posterior to the hips and formed by the gluteal muscles to the hips and underlying structures.

“PEEP SHOW FACILITY” An establishment utilizing a device operated manually, mechanically, magnetically, electrically, or electronically which exhibits, displays, projects, or illuminates photographed, videotaped, or magnetically reproduces images, or exposes live entertainment to the viewer while the viewer is in a booth, stall, or other closure distinguished or characterized by an emphasis on matter depicting sexual conduct as defined by I.C. 35-42-4-4 (and as it may from time to time be amended) or nudity for observation by patrons thereof.

“RELIGIOUS INSTITUTION”. A church, synagogue, mosque, temple or building which is used primarily for religious worship of a supreme being or beings.

“SEXUAL ENCOUNTER CENTER” An enterprise that, as one of its business purposes, offers for any form of consideration:

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (b) Activities between male and female persons and or persons of the same gender where one or more persons appears in a state of nudity or where the activities in divisions (a) or (b) herein are characterized by an emphasis on activities which meet the definition of harmful to minors as set forth in I.C. 35-49-2-2 (and as it may from time to time be amended) and/or sexual conduct as set forth in I.C. 35-42-4-4 (and as it may from time to time be amended.).
- (B) Any and all other definitions pertaining to sexually oriented businesses that may appear in the Town Municipal Code under Title 15 Land Usage are hereby repealed.

§151.771 SPECIAL EXCEPTIONS

The following businesses shall be deemed special exceptions and will be processed by the present land use provisions and procedures for special exceptions under the determination of the Board of Zoning Appeals:

- (A) Adult cabaret (SU1);
- (B) Adult motion picture theater (SU2);
- (C) Adult theater (SU3);
- (D) Nude model studio (SU4);
- (E) Sexual encounter center SU5);
- (F) Peep show facility (SU6);
- (G) Adult bookstore (SU7);
- (H) Adult novelty store (Su8);
- (I) Adult arcade (SU9); and

- (J) Adult juice bar (SU10).

§151.772 LIMITATIONS AND PROVISIONS.

- (A) In addition to all other limitations and provisions contained in the Zoning Ordinance a special exception businesses within this Section shall:
 - (1) Not be located within 1,000 feet of any property zoned for residential use;
 - (2) Not be located within 500 feet of any property permitted for use as a religious institution, public or private school containing any grade of kindergarten through grade 12;
 - (3) Not be located within 500 feet of any municipal park grounds; and
 - (4) Not be located within 500 feet of any other special use or pre-existing use which is an adult bookstore, adult novelty store, adult video store, adult arcade, adult cabaret, adult motion picture theater, adult theater, nude model studio, sexual encounter center or peep show facility. However, more than one special use business, as set forth above, may be located on the same parcel of property as long as it meets the other provisions of this section and the other provisions of the town zoning code.
- (E) Distances shall be ascertained as follows: The applicant shall have certifies all distance measurements by a land surveyor registered with the state who shall certify that there are no residential properties, public or private schools with a grade of kindergarten through twelfth grade, municipal park, religious institution, or special use or pre-existing special use as set forth in this subchapter within the distances imposed above.
- (F) In addition to all other procedures listed above, the petition for a special use shall send notice to the abutting property owners and to all other property owners within 1,000 feet of the property requested for a special use by certified mail with return receipt requested. A list of the property owners shall be given to the Town Plan Commission at the time of filing the application. Should the petitioner fail to comply with the notice requirements herein, their application shall be withdrawn by the Board of Zoning Appeals.
- (G) The distances provided in division (A) above shall be measured by following a straight line, without regard to intervening buildings, structures, or other obstacles, from the nearest point on the property upon which the proposed use is to be located, to the nearest point of the property or the land use district boundary line from which the proposed land use is to be separated.

§151.773 PERMITTED DISTRICTS.

These Special Exceptions are permitted in the following zoning district: C-2 Commercial Business District.

§151.774 PARKING REQUIREMENTS.

The property on which the proposed use is to be located shall be of sufficient size to accommodate off-street parking as follows:

- (A) SU1 (Adult cabaret) – one parking space for each 200 square feet of floor space;
- (B) SU2 (Adult motion picture theater) – one parking space for each four seats plus one parking space for each employee of the largest working shift;
- (C) SU3 (Adult theater) – one parking space for each four seats plus one parking space for each employee of the largest working shift;
- (D) SU4 (Nude model studio) – one and one-half parking space for each two customers plus one parking space for each employee of the largest working shift;
- (E) SU5 (Sexual encounter center) – one parking space for every two customers plus one parking space for each employee of the largest working shift;
- (F) SU6 (Peep show facility) – one parking space for every two customers plus one parking space for each employee of the largest working shift;
- (G) SU7 (Adult bookstore) – one parking space for every two customers plus one parking space for each employee of the largest working shift;
- (H) SU8 (Adult novelty store) – one parking space for every two customers plus one parking space for each employee of the largest working shift;
- (I) SU9 (Adult arcade) – one parking space for every two customer seats or arcade devices (whichever is greater) plus one parking space for each employee of the largest working shift; and
- (J) SU10 (Adult juice bar) – one parking space for each two customer seats plus one parking space for each employee of the largest working shift.

SPECIAL EXCEPTIONS

GENERAL PROVISIONS

§151.780 DETERMINATION BY BOARD OF ZONING APPEALS

Special Exceptions may be permitted by the Board of Zoning Appeals after public hearing, only in accordance with procedures set forth in this Section and the requirements listed the District Use Index. No Special Exception shall be granted unless the Board shall have first found that the public convenience and welfare will substantially be served and that the proposed use will not be unduly detrimental to the surrounding area. In the exercise of its approval the Board may impose such additional conditions regarding the location, character and other features of the proposed structure or use, as it may deem advisable in the furtherance of the purpose of this Ordinance.

§151.781 FILING PROCEDURE

Special Exceptions filing procedures; a petition for a Special Exception shall be filed with the Plan Administrator upon such form and accompanied by such information as shall be established by the Board. The Plan Administrator shall then proceed to process the application. The Board shall then proceed with a hearing in accordance with the provisions of this Ordinance.

§151.782 CONFORMANCE REQUIREMENTS

The Board may impose conditions to assure that the Special Exception will conform to the intent of this Ordinance. These conditions may include but are not limited to the provisions of the following:

- (A) Off-street parking and loading areas, with particular attention to the economic, noise, glare, or odor effects of the Special Exception on adjoining properties.
- (B) Refuse and service areas.
- (C) Special screening and buffering with reference to type, dimensions and character.
- (D) Signs and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the area.
- (E) Additional setback distances, yards, and open spaces.

- (F) General compatibility with adjoining properties, with references to site development standards designed for their mutual protection and the environmental harmony of the area.

A Wind Energy Conversion System (*WECS*) shall meet any applicable requirements of the federal, state or local government. In addition to those requirements for Special Exceptions found in Section 54.347 (A) through (F), the following shall apply to a *Wind Energy Conversion System*. Words in bold print are defined in definition section of this ordinance.

- (G) No *WECS* shall be illuminated unless required by a state or federal agency, such as the FAA.
- (H) The exterior surface of all *WECS*, including the *wind tower* and associated outbuildings shall be a non-reflective, neutral color.
- (I) Minimum clearance between blade tip and ground level is 30'
- (J) The minimum separation distance between a *wind tower* associated with a *small wind energy conversion system* and all surrounding property lines, overhead utility or transmission lines, other electrical substations, meteorological towers and *primary communication towers* shall be no less than the *total height* of the *wind tower*. This is measured from the base of each *wind tower*.
- (K) The minimum setback between a *wind tower* associated with a *small wind energy conversion system* and a public street(s) shall be no less than the *total height* of the *wind tower* or the front setback of the applicable zone district, whichever is greater.
- (L) The minimum separation distance between a *wind tower* associated with a *large wind energy conversion system* and all surrounding property lines, overhead utility or transmission lines, other electrical substations, meteorological towers and *primary communication towers* shall be no less than 1.1 times the *total height* of the *wind tower*. This is measured from the base of each *wind tower*.
- (M) The minimum setback between a *wind tower* associated with a *large wind energy conversion system* and a public street(s) shall be no less than 1.1 times the *total height* of the *wind tower*.
- (N) A *large wind energy conversion system* must be located at least 1000' from any existing dwelling unit, except a dwelling unit(s) located on the parcel which the *wind tower* is erected. A *large wind energy conversion system* must be located at least 1000' from the

property line of any parcel of land outside of the designated *wind farm* parcels that has a dwelling as a permitted land use without the need for a variance.

- (O) *Wind farms* occupying multiple parcels may have internal property line setbacks waived by execution of a written document signed by all landowners sharing such a property line. All such documents shall be recorded in the office of the Wayne County Recorder.
- (P) All *WECS* shall be located so that the level of noise produced by the wind turbine operation heard off of the parcel which the *wind tower* is erected shall not exceed 55dBA.
- (Q) The base of all *WECS*, including any guy wires and *wind tower*, shall be totally and permanently enclosed by security fence at least 6' high. No fence is required if the climbing apparatus is enclosed inside the *wind tower* and the entry is secured, or if the climbing apparatus is located at least 12' above the ground level.
- (R) *WECS* associated outbuildings/cabinets shall meet all setback requirements for primary structures for zoning district in which the *WECS* is located.
- (S) Special Exception applications and Improvement Location Permit applications for a *large wind energy conversion system* or a *wind farm* must be accompanied by a decommissioning plan detailing how the *large wind energy conversion system* or *wind farm* will be dismantled and the land restored to its prior state. Such plan would be implemented when such *large wind energy conversion system* or *wind farm* ceases operation for a period of 12 months. The plan would include the removal of all portions of the *WECS*, including any components to a depth of 4' below ground level. The applicant may be required to provide a surety bond or other proof of financial responsibility as prescribed by the Town Council in an amount determined by the Plan Commission to be of a sufficient amount to complete the decommissioning plan. The decommissioning must be complete within 6 months.
- (T) All *WECS* shall be equipped with a manual and automatic braking device capable of halting operations.
- (U) All wiring installed outside of the *wind tower* for a *WECS* shall be buried.
- (V) No *WESC* shall be installed in any location where its proximity with fixed broadcast, retransmission or recreation antenna for radio; airport RF signals, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception.

- (W) All *WECS* electrical equipment and connections must adhere to all applicable local, state, and national codes, and relevant national and international standards.
- (X) A transportation plan showing how vehicles would access the site of a *WECS*. The plan shall describe the impact of the proposed project on the local and regional road system during construction, including the transporting of *WECS* parts and/or equipment for construction, as well as the operation and maintenance of the project.
- (1) The plan shall identify any proposed routes that will be used for construction, operation and maintenance purposes. If the route includes a public road under the jurisdiction of the Wayne County Highway Department, the plan must be approved by the Wayne County Highway Superintendent. The Superintendent shall conduct a pre-construction assessment to determine existing road conditions for determining potential future damage.
 - (2) If the route includes a public road under the jurisdiction of any other entity, the plan must be approved by the entity.
 - (3) Any damage caused to a public road under the jurisdiction of the Wayne County Highway Superintendent by the construction, operation or maintenance of the *WECS* project must be repaired to the satisfaction of the Wayne County Highway Superintendent. The Superintendent may determine that repairs of the road are necessary before the project has been completed; or the Superintendent may determine to require repairs of the road upon completion of the project.
 - (4) A surety bond in an amount determined by the Wayne County Engineer may be required by the Superintendent to insure the County that repairs are completed to the satisfaction of the Wayne County Board of Commissioners.
- (Y) In any *WECS* installation, the *shadow flicker* must be eliminated from any roadway or any occupied structure located on any non-participating property

A Farm Alcohol (ethanol) Production facility shall meet any application requirements of the Federal, state and local government. In addition to those requirements for a Special Exception found in Sections 151.780 through 151.789, the following shall apply to a Farm Alcohol (ethanol) Production facility.

- (A) Any owner, lessee, or other person, firm or corporation having an interest in alcohol production may file with the Board of Zoning Appeals an Special Exception application for authorization to produce alcohol for fuel or as an additive to other fuels.

- (B) An application for alcohol production shall include, for the Board's analysis and determination, the following information:
- (1) Name of the owner or owners of the property on which the alcohol is to be produced.
 - (2) Name of applicant making request for such operation and name of person or persons to be operator.
 - (3) Location, description, and size of the property on which the alcohol is to be produced.
 - (4) Location of the production site.
 - (5) Type of resources, and source of same, to be used in the production.
 - (6) Description of equipment to be used.
 - (7) Quantity proposed to produce.
 - (8) Proposed use or disposal of distilled product.
 - (9) Method of storage
 - (10) Proposed use of by-product.
 - (11) Storage of by-product.
 - (12) All applications shall be filed as outlined in the Board of Zoning Appeals rules of procedure.

§151.783 GENERAL REQUIREMENTS

The regulations, (Federal, State or Local) prescribed by any other authority having jurisdiction, and as may be otherwise required by law, shall be complied with, in addition to the following regulations:

- (A) The tract of land shall be in the A-1 Agriculture Zone District.
- (B) No vehicular entrance to or exit from any alcohol production site, whenever such may be located, shall be within two hundred (200) feet along roads from any school, church,

hospital, or institution for dependents or for children. All access roads shall be maintained in a dust free condition.

- (C) No alcohol operation or production shall be carried on or any stock pile of by-products closer than seventy-five (75) feet to any right-of-way or property line, unless a greater distance is specified by the Board of Zoning Appeals where such is deemed necessary for the protection of adjacent property.
- (D) Fencing shall be erected and maintained around the entire site or portions thereof where in the opinion of the Board of Zoning Appeals such fencing is necessary for the protection of the public safety.
- (E) All equipment used in the processing shall be operated and maintained in such manner that the public safety will not be endangered, or impair property values within the neighborhood.

§151.784 HEARING

- (A) Upon receipt of application, the Board of Zoning Appeals shall set the case for public hearing in accordance with provisions of this section
- (B) In the event the Board of Zoning Appeals should decide to approve the request, in addition to the forgoing, the Board of Zoning Appeals may impose such other conditions, requirements or limitations concerning the nature, extent of the use and operation of such alcohol production as the Board of Zoning Appeals may deem necessary for the protection of adjacent properties and the public interest.

EXTRACTION OF MINERALS

§151.785 PROCEDURE, APPLICATION, AND PUBLIC HEARING

- (A) Any owner, lessee, or other person, firm or corporation having an interest in mineral resources within lands where the extraction or mining of such minerals is not prohibited under the provision of Section 151.900 *et seq* may file with the Board of Zoning Appeals a Special Exception application for authorization to extract minerals therefrom.
- (B) An application for such operation shall set forth the following information:
 - (1) Name of the owner or owners of the land from which removal is to be made.
 - (2) Name of applicant making request for such a permit.
 - (3) Name of the person or corporation conducting the actual removal operation.
 - (4) Location, description, and size of the area from which the removal is to be made.
 - (5) Location of processing plant used.
 - (6) Type of resources or materials to be removed.
 - (7) Proposed method of removal and whether or not blasting or other use of explosives will be required.
 - (8) Description of equipment to be used.
 - (9) Method of rehabilitation to be used.
- (C) Upon receipt of such application, the Board of Zoning Appeals shall set the matter for a public hearing in accordance with the provisions of Section 151.900 *et seq*.

§151.786 GENERAL REQUIREMENTS

- (A) Structures and equipment, their use and operation shall comply with all requirements of the district in which said property is located.
- (B) No quarrying operation shall be carried on or any stock pile placed closer than seventy-five (75) feet to any property line, unless a greater distance is specified by the Board of Zoning Appeals where such is deemed necessary for the protection of adjacent

property; provided that this distance requirement may be reduced to fifty (50) feet by written consent of the owner or owners of the abutting property.

- (C) In the event that the site of the mining or quarrying operation is adjacent to the right-of-way of any public street or road, no part of such operation shall take place closer than seventy-five (75) feet to the nearest line of such right-of-way.
- (D) Fencing shall be erected and maintained around the entire site or portions thereof where in the opinion of the Board of Zoning Appeals such fencing is necessary for the protection of the public safety, and shall be of a type specified by the Town.
- (E) All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise and vibration. Access roads shall be maintained in dust-free condition by surfacing or other treatment.
- (F) The crushing, washing, and refining or other similar processing may be authorized by the Board of Zoning Appeals as an accessory use; provided, however, that such accessory processing shall not be in conflict with the use regulations of the district in which the operation is located, and shall not be located within two hundred (200) feet of any boundary of the site.

§151.787 REHABILITATION AND PERFORMANCE BONDS

To guarantee the restoration, rehabilitation and reclamation of mined-out areas, every applicant granted a mining permit as herein provided shall furnish a performance bond running to the Town or Wayne County, as applicable, as a guarantee that such applicant, in restoring, reclaiming and rehabilitation such land, shall within a reasonable time and to the satisfaction of the Town Council or County Commissioners, as applicable, meet the following minimum requirements:

- (A) All excavation shall be made either to a water producing depth, such depth to be not less than five (5) feet below water mark, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids, to secure (a) that the excavated area shall not collect and permit to remain therein stagnant water; or (b) that the surface of such area which is not permanently submerged is graded or back-filled as necessary so as to reduce the peaks and depressions thereof so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
- (B) Vegetation shall be restored by appropriate seeds of grasses or planting of shrubs or trees in all parts of said mining area where such area is not to be submerged under water as herein above provided.

- (C) The banks of all excavations not back-filled shall be sloped to the waterline at a slope which shall not be less than three (3) feet horizontal to one (1) foot vertical and said bank shall be seeded.

§151.788 ADDITIONAL REQUIREMENTS

In addition to the foregoing the Board of Zoning Appeals may impose such other conditions, requirements or limitations concerning the nature, extent of the use and operation of such mines, quarries or gravel pits as the Board of Zoning Appeals may deem necessary for the protection of adjacent properties and the public interest. The said conditions and the amount of the performance bond shall be determined by the Board of Zoning Appeals prior to issuance of the permit.

§151.789 CONSTRUCTION REQUIREMENTS

Any person who is issued a Special Exception approval who fails to commence construction or Special Exception use within twelve (12) months after such approval by the Board, may be required by the Board upon its own motion, to show why such Special Exception approval should not be withdrawn.

§151.790 DISTRICT USE INDEX

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Acetylene, Mfg. of								P
Acid, Mfg. of								P
Advertising Displays, production of						P	P	P
Agriculture Related Services (on lots of 5 acres or more)	P							
Air Conditioning Contractor						P	P	P
Public Owned Airport or Heliport. Private not permitted	P	SE	SE	SE	SE	SE	SE	SE
Alcohol, Industrial Mfg.								P
Alloying of Metals								P
Ambulance Service					P	P		
Amusement Establishments					P	P		
Animal Hospital, Veterinary Clinic	P					P	P	P
Antique Shops				P	P	P		
Apartment Hotels			P	P	P			
Apartment Houses			P	P	P			
Appliances, Electric Mfg.							P	P
Appliances, Plumbing Mfg.							P	P
Art Galleries		SE	SE	P	P	P		
Art Goods, Statues, etc. Mfg. of							P	P
Art Supply Stores					P	P		

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Artificial Lake (commercial use)	SE							
Asbestos, Mfg. of								P
Asphalt Roofing, Mfg. of								P
Athletic Equip. Mfg. of							P	P
Auction Room					P	P		
Auditorium (commercial)	SE				SE	SE	SE	SE
Auto Accessory Store					P	P		
Automobile Assembly								P
Automobile Body Shop						P	P	P
Automobile Garage (no body work)					P	P	P	P
Automobile Repair (Major)					P	P	P	P
Automobile Repair (Minor)					P	P	P	P
Automobile Sales						P	P	P
Automobile Service Station					P	P	P	P
Automobile Wash					P	P	P	P
Automobile Wrecking								P
Bakeries Retail				P	P	P		
Bakeries, Wholesale						P	P	P
Banks, Including Drive-in					P	P	P	

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Barber Shops (more than 1 chair)				P	P	P		
Bars & Restaurants					P	P		
Batteries, Dry Cell Production							P	P
Battery and Tire Service						P	P	P
Beauty Shops (more than 1 chair)				P	P	P		
Beverages, Non-alcoholic Mfg. of							P	P
Bicycles, Mfg. of							P	P
Bicycle Store & Repair					P	P	P	P
Blacksmith Shop							P	P
Blacksmith, Metal Working								P
Bleaching, Cleaning & Drying Plant								P
Boat Building & Repair						P	P	P
Boat Livery	SE							
Bolts, Mfg. of (Fasteners)							P	P
Bone Products, Mfg. of							P	P
Book Binding						P	P	P
Book & Stationery Store				P	P	P		
Bottling & Creamery Plant								P
Bottling Soft Drinks						P	P	P
Bottling Works, Beverages							P	P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Bowling Alleys					P	P	P	P
Building Contractor						P	P	P
Building Materials Sales						P	P	P
Building Materials Yards							P	P
Bus Bodies, Mfg.							P	P
Bus, Storage						P	P	P
Business, Retail & Service					P	P	P	P
Business Schools				P	P	P		
Camera & Photo Supply Store				P	P	P		
Camera, Mfg. of							P	P
Camp, Commercial	SE							
Camping Ground, Commercial	SE							
Candle or Lamp Oil, Mfg. of								P
Candy & Ice Cream Store				P	P	P		
Canvas Products , Mfg. of							P	P
Caps, Bottle, Mfg. of							P	P
Carbides, Mfg. of								P
Carpenter Shops						P	P	P
Carpet & Rug Stores					P	P		
Castings, Non-Ferrous							P	P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Castings, Metal								P
Catering Establishments					P	P		
Caustic Soda, Mfg. of								P
Cellular Tower	SE	SE	SE	SE	SE	SE	SE	SE
Cement						P	P	P
Cemeteries	P	SE	SE	SE	SE	SE	SE	SE
Ceramics, Production of							P	P
Charcoal, Mfg. of								P
Chemicals Mfg. of								P
China & Glassware Store				P	P	P		
Churches	P	P	P	P	P	P	P	P
Cleaning of Junk								P
Cleaning Plant, Large Scale								P
Cleaning Preparations, Mfg.								P
Clinic, Medical & Dental			SE	P	P	P		
Clothing, Custom & Alteration, Retail					P	P	P	P
Club, Country	P	SE	SE					
Clubs, Non-Commercial	SE	SE	SE	SE	SE	SE	SE	SE
Coal, Mfg. of								P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Coal Yards								P
Coin Store			P	P	P	P		
Coke, Mfg.								P
Cold Storage Plant								P
Colleges	P	SE	SE	SE	SE			
Commercial Unit Development				P	P	P		
Commercial Recreation	SE				P	P		
Community Business					P	P		
Concrete Mixing Sales Yard								P
Confined Feeding Operation								
Contractor or Construction Shop						P	P	P
Contractors Equipment Storage						P	P	P
Convents		SE	SE	SE	SE			
Cordage, Mfg.							P	P
Cork Products							P	P
Cosmetics, Production						P	P	P
Costume & Clothing Rental					P	P		
Craft, Pleasure Repair							P	P
Crates, Mfg.							P	P
Creamery & Bottling Plant								P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Crematories	SE	SE	SE	SE	SE	SE	SE	SE
Custom Slaughtering Facilities	SE							
Cutting or Sandblasting								P
Dance Hall					P	P		
Dance School				P	P	P		
Delicatessens				P	P	P		
Dental Clinic (2 or more DDS)			SE	P	P	P		
Dental Laboratories						P	P	P
Dental Offices (1 DDS)		SE	SE	P	P	P		
Dentures, Production of						P	P	P
Department Stores					P	P		
Detergents, Packaging							P	P
Development Unit, Commercial				P	P	P		
Development Unit, Community	P							
Development Unit, Industrial							P	P
Development Unit, Residential	P	P	P	P	P			
Diaper Service						P	P	P
Die & Pattern Making						P	P	P
Disinfectant, Mfg.								P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Disposal Plant	SE							SE
Disposal Sites (Landfill)	SE							
Dormitory	P	SE	SE	SE	SE			
Drills, Tools; Mfg. of							P	P
Drive-in Establishments				SE	P	P	SE	SE
Drive-in Movie	SE			SE	P	P		
Drive-through Establishment				SE	P	P	SE	SE
Drugs, Production of						P	P	P
Drug Stores				P	P	P		
Dry Cell Batteries, Production							P	P
Dry Cleaning, Establishment						P	P	P
Dry Cleaning Stations				P	P	P		
Dry Goods Store				P	P	P		
Dwelling, Multi-Family			P	P	P			
Dwelling, Single Family	P	P	P	P	P	SE	SE	SE
Dwelling, Special Placing	SE	SE	SE	SE	SE			
Dye & Dyestuffs Mfg.								P
Dyeing, Cleaning Plants								P
Dyeing of Knit Goods							P	P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Electrical Appliance Store					P	P		
Electrical Contractor Shop						P	P	P
Electrical Equipment, Assembly							P	P
Electrical Power Plant								P
Electrical Supplies, Mfg.							P	P
Electronic Equipment Assembly							P	P
Emery Cloth, Mfg. of								P
Employment Agencies					P	P		
Enamel. Mfg. of								P
Enameling								P
Engraving and Photo Engraving					P	P	P	P
Envelopes & Stationery Production							P	P
Excelsior, Mfg. of								P
Experimental Laboratories						P	P	P
Explosives, Mfg. of								P
Exterminating Shops					P	P		
Extraction of Radium								P
Extraction of Raw Materials	SE							
Family Group Home	SE	SE	SE	SE	SE			

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Farm Alcohol Production	SE							
Fat & Oil Rendering								P
Fans, Production of							P	P
Feather Products							P	P
Feed & Grain Processing	P							P
Feed, Mfg. of	P							P
Feed Sales	P						P	P
Felt, Mfg.								P
Felt Products, Production							P	P
Fertilizer Sales	P							
Fiber Products, Production							P	P
Film, Photographic Mfg.								P
Firearms & Ammo Sales & Repair					P	P	P	
Fire Station	P	P	P	P	P	P	P	P
Fish Hatcheries	P							
Fishing & Hunting Clubs (commercial)	SE	SE	SE	SE	SE	SE	SE	SE
Fixtures Stores					P	P		
Flea Markets					P	P		
Florist Shops				P	P	P		
Flour, Processing								P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Food Distribution						P	P	P
Food Packaging						P	P	P
Food Stores				P	P	P		
Forge or Foundry Works								P
Foundries							SE	P
Foundries of Magnesium							SE	P
Framing of Pictures					P	P		
Fraternity House		SE	SE	SE	SE			
Frozen Food Lockers				P	P	P		
Frozen Food Stores				P	P	P		
Fuel Briquettes Mfg.								P
Funeral Homes			SE	SE	P	P	SE	SE
Fur Goods Mfg.							P	P
Fur Products							P	P
Furrier Shops					P	P		
Furniture, Custom Making						P	P	P
Furniture, Mfg.							P	P
Furniture, Stores					P	P		
Game Preserves	P							
Garages, Display & Sales						P	P	P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Garden Supply Store				P	P	P		
Gas, Generation, & Storage								P
Gas, Mfg.								P
Gasoline Stations				SE	P	P		
Gelatin, Animal Mfg.								P
General Business						P		
Gift Shops				P	P	P		
Glass Cutting & Glazing						P	P	P
Glass Products, Production							P	P
Glassware Store				P	P	P		
Gloves, Production							P	P
Glucose, Mfg.								P
Glue, Mfg.								P
Golf Course	P	SE	SE					
Grain Drying	P							P
Grain Elevators	P							P
Grain Milling & Processing	P							P
Green House, Commercial	P					P	P	P
Grocery Store				P	P	P		
Haberdasheries				P	P	P		

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Hair Products, Mfg. of								P
Hair Products, Production							P	P
Hand-binding & Tooling of Books						P	P	P
Hardware, Mfg. of							P	P
Hardware Stores				P	P	P		
Health Facility	SE	SE	SE	P	P	P		
Health Services	SE	SE	SE	P	P	P		
Heating & Ventilation Contractor						P	P	P
Hobby Shops				P	P	P		
Hosiery, Production							P	P
Hospitals	SE	SE	SE	SE	SE			
Hotel			SE	SE	P	P		
Hotel & Bars Fixture Store					P	P		
Household Appliance Store					P	P		
Household Machinery Repair						P	P	P
Hunting & Fishing Club	SE	SE	SE	SE	SE	SE	SE	SE
Hydro-Electric Power Plant	P						p	p
Hydrogen, Mfg.								P
Ice Cream & Candy Store				P	P	P		

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Ice, Mfg.							P	P
Industrial Park							P	P
Inflammable Liquids Storage								P
Ink. Mfg. of								P
Ink, Mixing & Packaging							P	P
Insecticide, Production							P	P
Instruments, Drafting, Mfg. of							P	P
Instruments, Medical, Mfg. of							P	P
Instruments, Musical, Mfg. of							P	P
Instruments, Optical, Mfg. of							P	P
Interior Decorating Shop					P	P		
Japanning, Mfg. of								P
Jewelry, Production						P	P	P
Jewelry Stores				P	P	P		
Junk Cleaning								P
Junk, Salvage Yards							SE	P
Kennels	P					P	P	P
Knit Goods, Mfg.							P	P
Laboratories						P	P	P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Lacquering								P
Lacquer, Mfg.								P
Lamps, Mfg.							P	P
Landfill	SE							
Laundry					P	P	P	P
Laundry, Receiving Station				P	P	P	P	P
Leather Goods, Production							P	P
Leather Goods Store				P	P	P		
Leather Products							P	P
Libraries Public Service	P	P	P	P	P	P	P	P
Lighting Fixtures, Production							P	P
Limbs, Artificial, Mfg.							P	P
Lime or Lime Products, Mfg.								P
Linen Supply Service						P	P	P
Linoleum Mfg.								P
Linoleum Stores					P	P		
Linseed Oil, Mfg.								P
Liquor Served in Restaurant					P	P		
Liquor Stores, Pkg. Goods					P	P		
Livestock Sales Yards	SE							

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Loan Offices					P	P		
Lockers, Frozen Food				P	P	P		
Locksmith Shops				P	P	P		
Locomotive Shops								P
Lodges	SE	SE	SE	SE	SE	SE	SE	SE
Lots, Sales						P	P	P
Lumber Yards						P	P	P
Machine Belting, Mfg.							P	P
Machinery Repair (Office, Household)						P	P	P
Machinery Sales & Repair						P	P	P
Machinery Sales (No Repair)					P	P		
Machine Shop							P	P
Magnesium Foundries								P
Manufactured or Mobile Home Park	SE		SE	SE	SE	SE		
Manufactured or Mobile Home Sales						P	P	P
Manufacturing, Heavy								P
Manufacturing, Light							P	P
Mattress, Mfg.							P	P
Mausoleums	P	SE	SE	SE	SE	SE	SE	SE

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Meat Markets				P	P	P		
Meat Packaging								P
Meat Products, Processing							P	P
Medical Appliances, Mfg.							P	P
Medical Clinic, 2 or more Physicians			SE	P	P	P		
Medical Instruments, Production							P	P
Medical Laboratories						P	P	P
Medical Office, One Physician		SE	SE	P	P	P		
Medical Supply Stores					P	P		
Metal Castings							P	P
Metal Castings Mfg.								P
Metal & Metal Ores								P
Metal Products, Production							P	P
Metal Stamping and Extrusion							P	P
Millinery Shops				P	P	P		
Milling of Grain	P							P
Millwork								P
Mining (extraction of minerals)	SE							
Mobile Home, Residence	SE	SE	SE	SE	SE			
Monasteries		SE	SE	SE	SE			

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Monument Sales					P	P	P	P
Monument Works								P
Motels			SE	SE	P	P		
Motorcycle Sales & Repair						P	P	P
Multi-family Dwelling			P	P	P			
Museum	P	P	P	P	P	P	P	P
Music Schools				P	P	P		
Musical Instrument, Production							P	P
Musical Instrument Stores					P	P		
Neighborhood Business				P	P	P		
Newspaper Establishments						P	P	P
Night Club					P	P		
Nitrates, Mfg.								P
Nitric Acid, Use or Mfg. of								P
Non-commercial Recreation	P	SE	SE	SE	SE	SE	SE	
Nursery School		SE	SE	SE	SE			
Nursing Homes	SE	SE	SE	SE	SE			
Nuts, Screws & Bolts, Mfg. Of							P	P
Office, Business				P	P	P		
Office, Design Services				P	P	P		

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Office, General Services				P	P	P		
Office, Machinery Repair						P	P	P
Office, Medical Services				P	P	P		
Office Supply Store					P	P		
Oil Goods Mfg.								P
Oil Rendering								P
One-Family Dwelling	P	P	P	P	P	SE	SE	
Optical Instruments, Mfg.							P	P
Optical Lenses, Production						P	P	P
Optician Shops				P	P	P		
Orthopedic Appliances, Mfg.							P	P
Orthopedic Supply Stores					P	P		
Oxygen, Mfg.								P
Packing & Crating						P	P	P
Paint, Mfg.								P
Paint Shops (painting on site)						P	P	P
Paint, Wallpaper Stores (Sales)				P	P	P		
Paper Mill								P
Paper Products, Production							P	P
Paper & Pulp Mfg.								P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Parish Houses	P	P	P	P	P	SE	SE	
Park, Commercial					P	P		
Parks, Public Owned	P	P	P	P	P	P	P	P
Parking Facilities, Commercial				P	P	P	P	P
Pawn Shops					P	P		
Perfume, Mfg.						P	P	P
Personal Services			SE	P	P	P		
Pet Shops					P	P		
Pharmaceuticals, Mfg.							P	P
Philanthropic & Eleemosynary	SE	SE	SE	SE	SE	SE	SE	SE
Photograph Processing Store					P	P		
Photographic Equipment, Mfg.							P	P
Photographic Film, Mfg.								P
Photostatting Establishments					P	P		
Picture Framing					P	P		
Plaster, Mfg.								P
Plastics, Mfg.								P
Plastics, Production							P	P
Plating, Metal							P	P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Playground	P	P	P	P	P	P	P	P
Plumbing Appliances, Mfg.							P	P
Plumbing Shops (Contractors)						P	P	P
Plumbing Showrooms, Retail					P	P		
Poison, Mfg.								P
Polishing Preparations, Mfg.								P
Post Office					P	P		
Pot Ash, Mfg.								P
Pottery Production							P	
Poultry Feed, Mfg.	P							P
Poultry and Rabbit Wholesale Slaughtering							P	P
Printing, Commercial					P	P	P	P
Printing, Custom					P	P		
Printing Ink, Mfg.								P
Pulp, Mfg.								P
Pumping Station	SE	SE	SE	SE	SE	SE	P	P
Radio Repair (Computer, Electronics)					P	P		
Radio Sales (Computer, Electronic)					P	P		
Radio Towers	SE	SE	SE	SE	SE	SE	SE	SE
Radium Extraction								P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Range; Golf, Rifle	SE							
Razor Blade Stamping							P	P
Recreational Facilities, Commercial	SE				P	P		
Recreational Facilities Non-Commercial	P	SE	SE	SE	P	P	SE	
Recreational Vehicle Park	SE			SE	SE			
Reducing Salons (Weight Loss)					P	P		
Reduction of Metals								P
Refining of Metals								P
Refining of Sugar								P
Refrigeration (repair, mfg.)						P	P	P
Rental Shops, Clothing					P	P		
Reservoirs, Utility	P	SE	SE	SE	SE	SE	SE	SE
Residential Development	P	P	P	P	P			
Residential, Multi-Family			P	P	P			
Residential, Single Family	P	P	P	P	P	SE	SE	
Restaurant				SE	P	P		
Restaurant, Drive-in				SE	P	P		
Retail or Service Neighborhood Business				P	P	P		
Retail or Service Community Business					P	P		

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Retail or Service General Business						P		
Roofing Shop						P	P	P
Rooming House	SE	SE	SE	SE	SE			
Rubber Products, Production							P	P
Rummage Shops (Full Time)					P	P		
Rust Proofing, Metals							P	P
Salvage Yards							SE	P
Sandblasting								P
Sandpaper Mfg.								P
Sanitarium or Sanatorium	SE	SE	SE	SE	SE			
Savings & Loan					P	P		
Sawdust, Mfg.								P
Sawmill	P							P
School; Private, Public	P	P	P	P	P			
School, Supply Store					P	P		
Scooters, Mfg.							P	P
Screw & Bolt Mfg.							P	P
Second Hand Store(consignment)					P	P		
Service Stations				SE	P	P		

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Sheet Metal Products						P	P	P
Shellac, Mfg.								P
Shopping Centers					P	P		
Shoe Repair				P	P	P		
Shoe Store					P	P		
Signs, Advertising	P			P	P	P	P	P
Signs, Real Estate	P	P	P	P	P	P	P	P
Silverware							P	P
Skating Rink					P	P		
Smelting Of Metals								P
Soap & Detergent Packaging							P	P
Soap, Mfg.								P
Soft Drinks, Bottling						P	P	P
Soldering & Welding						P	P	P
Sorority Houses		SE	SE	SE	SE			
Sporting Goods, Production							P	P
Sporting Goods, Retail					P	P		
Stationery & Book Store				P	P	P		
Steam Power Plants								P
Steel Fabricating Shop								P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Stockyards	SE							
Stone & Monument Works								P
Stones, Precious Refining							P	P
Storage, Bldg. Commercial						P	P	P
Storage, Gas								P
Storage, Inflammable								P
Storage, Junk								P
Storage, Motor Vehicles						P	P	P
Swimming Pool, Public					P	P		
Switches, Electrical Mfg.							P	P
Tailor Shop				P	P	P		
Tar, Mfg.								P
Tar Roofing Mfg.								P
Taxidermist Shop					P	P		
Television Sales & Service					P	P		
Testing Laboratories						P	P	P
Textiles Production							P	
Theaters					P	P		
Ticket Agencies					P	P		
Tile, Glazed, Mfg. of							P	P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Tobacco Curing & Mfg.							P	P
Tobacco Shops				P	P	P		
Tool Making						P	P	P
Tools, Mfg.							P	P
Tourist Homes	SE	SE	SE	SE	SE			
Town Houses			P	P	P			
Toys Electrical, Electronic, Mfg. of							P	P
Toy Shops					P	P		
Trailer Lots (storage)						P	P	P
Trailer, Production							P	P
Trailer, Sales						P	P	P
Transfer Station, Landfill							P	P
Travel Bureaus with Employees					P	P		
Trophy Shops				P	P	P		
Truck Sales						P	P	P
Truck Terminals	SE					P	P	P
Universities	P	SE	SE	SE	SE			
Upholstery, Sales				P	P			
Upholstery, Mfg.							P	P
Used Car Lots						P	P	P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Variety Store					P	P		
Varnish, Mfg. (Paint)								P
Ventilating & Heating, Repair & Sales						P	P	P
Veterinary Clinic	P					P	P	P
Wallpaper Printing							P	P
Wallpaper Stores				P	P	P		
Warehouse Storage						P	P	P
Watch, Repair				P	P	P		
Water Filtration Plants, Utility	P	SE	SE	SE	SE	SE	SE	SE
Water Reservoirs, Utility	P	SE	SE	SE	SE	SE	SE	SE
Wearing Apparel, Sales					P	P		
Weaving, Mfg. Process							P	P
Welding & Soldering						P	P	P
Welding, Blacksmith							P	P
Wholesale Office & Storage						P	P	P
Wind Farm	SE							
Wind Tower	SE							
Wire & Cable Assembly							P	P
Wood Fiber, Mfg.								P
Wood Products							P	P

USE	A-1	R-1	R-2	C-1	C-2	C-3	M-1	M-2
Wood Pulp								P
Woodworking						P	P	P
X-ray Equipment, Mfg. of							P	P

IMMATERIAL MODIFICATION OF PRIOR EXISTING NON-CONFORMITY

§151.800 IMMATERIAL MODIFICATION OF PRIOR EXISTING NON-CONFORMITY

This section shall only apply to a Lot whereupon there exist (1) a Non-conforming Building or Structure * or (2) whereupon there exists a building or structure* which is designed or located upon a Lot and intended for a use that does not conform to the regulations of the District or Zone in which it is located, and such non-conformity exists as the result of a previously approved Special Exception or variance from one or more otherwise applicable development standards of the Zoning Ordinance (hereinafter an “Approved Non-conformity”).

- (A) “Immaterial Modification” Defined. The term “Immaterial Modification,” as used in this section, means any proposed extension, alteration, addition to, or modification of, either (1) a Non-conforming Building or Structure or (2) an Approved Non-conformity that, if affected, would not result in an appreciable increase in level of non-conformity of the particular Lot over those conditions thereon that pre-existed the particular Immaterial Modification. Example would include, but not be limited to, proposed additions to existing structures on Lots that currently fail to possess the requisite building line setbacks or yard depths and that, after completion of the Immaterial Modification, would possess at least the same setbacks or yard depths with no increase in the degree of non-conformity over that which preexisted.
- (B) Procedures for Initial Approval of an Immaterial Modification. At the time of application for an Improvement Location Permit the Plan Administrator may authorize such Immaterial Modifications as are disclosed by the applicant’s plans and drawings. Such Improvement Location Permit, if otherwise appropriate for issuance, shall be duly noted as containing one or more Immaterial Modifications. It shall be then held by the said department for a period of fifteen (15) days. Within five (5) days after receipt of the application, the Plan Administrator shall send notice of the filing of the application and a brief description of the proposed development requiring the Immaterial Modification to all interested parties, as defined by the Rules of Procedure of the Board of Zoning Appeals. The notice shall, among other things, advise the interested parties that unless specific written objections to the proposed Immaterial Modifications are filed with the Plan Administrator within ten (10) days from the date of mailing of the notice, the Immaterial Modification will be administratively granted and an Improvement Location Permit for the project will be issued to the applicant.
- (C) Procedures for Processing an Objection to an Immaterial Modification. Should any interested party object to any proposed Immaterial Modification, then the applicant shall submit the project and the requisite application for a variance or Special Exception

to the Board of Zoning Appeals for processing according to the regular rules and procedures of said Board.

*As used in this section, the term “structure”, whether or not capitalized, shall not include within its meaning a mobile home that is described in the definition of Chapter 151.

VARIANCE AND MODIFICATIONS

LOTS OF RECORD

§151.810 DWELLING ON ANY LOT OF RECORD

In any district where dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record at the effective date of this Ordinance, irrespective of its area or width, the owner of which does not own any adjoining property, provided that yard spaces satisfy requirements stipulated for the district in which such lot is located, or requirements as may be modified under Sections 151.810 through 151.822 or by the Board as set forth in Section 151.900 *et seq.*

HEIGHT MODIFICATIONS

§151.811 HEIGHT LIMITATIONS NOT APPLICABLE

The height limitations stipulated elsewhere in this Ordinance shall not apply to the following:

- (A) Barns, silos, or other farm buildings or structures on farms, church spires, belfries, cupolas, domes, monuments, water towers, fire and hose towers, observation towers, transmission towers, water pumping windmills, chimneys, smokestacks, flag poles, radio towers, masts and aerials, parapet walls extending not more than four (4) feet above the limiting height of the building.
- (B) Places of public assembly in churches, schools and other permitted public and semi-public buildings, provided that these are located on the first floor of such buildings and provided that, for each three (3) feet by which the height of such building exceeds the minimum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.
- (C) Bulkheads, elevator penthouse, water tanks, monitors, and scenery lofts, provided no linear dimensions of any such structure exceeds fifty (50) percent of the corresponding street lot line frontage; or to towers and monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height.

§151.812 MINIMUM REQUIREMENTS

All such structures above the heights otherwise permitted in the district shall not occupy more than twenty-five (25) percent of the area of the lot and shall be distant not less than fifty (50) feet in all parts from every lot line not a street lot line.

YARD MODIFICATIONS

§151.813 FRONT YARD MODIFICATIONS

- (A) In any A or R-District, where the average depth of at least two existing front yards on lots within one hundred (100) feet on the lot in question and within the same block front is less than or greater than the least front yard depth prescribed elsewhere in this Ordinance, the required depth of the front yard on such lot shall be modified. In such case, this shall not be less than the average of the depth on the two (2) lots immediately adjoining, or, in the case where there are no buildings on both of the lots immediately adjoining, the average depth of the front yards on lots within one hundred (100) feet of the lot in question and within the same block front; provided, however, that the depth of a front yard on any lot shall be at least ten (10) feet and need not exceed fifty (50) feet.
- (B) In any A or R-District where the natural slope of a lot within the required front yard has an average slope, normal to the front lot line at every point along said line, of such a degree or percent of slope that it is not practicable to provide a driveway with a grade of twelve (12) percent or less to a private garage conforming with the requirements of this Ordinance, such garage may be located within such front yard, but not in any case closer than six (6) feet from the front lot line.
- (C) Buildings on lots having frontage on two (2) non-intersecting streets need not have a rear yard, if an equivalent open space is provided on the lot in lieu of such required rear yard; applicable front yards must be provided, however, on both streets.
- (D) In those cases where the required lot width is not reached until the front building setback distance has been exceeded, then the minimum setback from any front property line, other than street right-of-ways, shall be the same as required for side line setback distance in the appropriate zoning district.
- (E) In those cases where the front property line at the street-right-way does not meet minimum lot width, then the front setback line shall be at that point where the minimum is reached, provided the required setback distance has been exceeded.

§151.814 SIDE YARD MODIFICATIONS

- (A) Each side yard, where required, shall be increased in width by two (2) inches, for each foot by which the length of the sidewall of the building, adjacent to the side yard, exceeds forty (40) feet.
- (B) Side yard width may be varied where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such case, the average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than one-half (1/2) the otherwise required least width; or narrower than three (3) feet in any case.

§151.815 REAR AND SIDE YARDS

- (A) In computing the depth of a rear yard or the width of a side yard, where the rear or side yard abuts an alley, one-half (1/2) of the width of the alley may be included as a portion of the required rear or side yard, as the case may be; provided, however, that no side yard shall be less at any point than three (3) feet, and no rear yard less than ten (10) feet.
- (B) Depth of a rear yard or width of each side yard for a one-family or two-family dwelling may be reduced by four (4) inches and two (2) inches respectively, for each foot by which a lot at the time of enactment of this Ordinance is less than one hundred (100) feet deep or less than fifty (50) feet wide; provided, however, that no such side yard shall be less at any point than three (3) feet, or, in the case of such side yard along a side street lot line, less than five (5) feet; and further provided that no such rear yard shall be less than ten (10) feet. The width of one side yard may be reduced when authorized by the Board, in the case of a one-family or two-family dwelling, to a width of not less than three (3) feet, provided the sum of the widths of the two side yards is not less than the required minimum, and provided the distance between the proposed dwelling and another dwelling, existing or proposed, on an adjacent lot is not less than the required minimum sum of the widths of two side yards; provided, however, that such reduction may be authorized only when the Board finds it warranted by the location of existing buildings or conducive to the desirable development of two or more lots.

YARD PROJECTIONS

§151.820 PROJECTION OF ARCHITECTURAL FEATURES

Certain architectural features may project into required yards or courts as follows:

- (A) Into any required front yard, or required side yard adjoining a side street lot line.

- (1) Cornices, canopies, eaves or other architectural features may project a distance not exceeding two (2) feet, six (6) inches.
 - (2) Fire escapes may project a distance not exceeding four (4) feet, six (6) inches.
 - (3) An uncovered stair and necessary landings may project a distance not to exceed six (6) feet, provided such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding three (3) feet in height.
 - (4) Bay windows, balconies, and chimneys may project a distance not exceeding three (3) feet, provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the building wall on which they are located.
- (B) Subject to the limitations of this Ordinance, the above-named features may project into any required side yard adjoining an interior side lot line, a distance not exceeding one-third (1/3) of the required least width of such side yard, but not exceeding three (3) feet in any case.
- (C) Subject to the limitations of this Ordinance, the features named therein may project into any required rear yards the same distances they are permitted to project into a front yard: provided, however, that landings of porches may be covered and may be covered and may project a distance not exceeding ten (10) feet but not closer than ten (10) feet from the rear lot line.

§151.821 FENCES, WALKS, AND HEDGES

Fences, walks and hedges may be located in required yards as follows:

- (A) If not exceeding at any point four (4) feet in height above the elevation of the surface of the ground at such point, such features may be located in any yard.
- (B) If not exceeding at any point six (6) feet in height above the elevation of the surface of the ground at such point, they may be located in any required rear yard or side yard.

§151.822 YARD REQUIREMENTS ALONG ZONING BOUNDARY LINES IN THE LESS RESTRICTED DISTRICT

- (A) Special rules apply to lots located in the less restricted district where one or more of its side's border on a different zoning district, unless subject to special greater restrictions or requirements stipulated by other provisions of this Ordinance.

- (1) Where the front, side, rear lot line, or court, are on the dividing line, then the minimum depth and width shall equal the average of the depth and width requirements in the two (2) districts.
- (2) In the case where the height of a proposed structure on such lot in the less restricted district is greater than the maximum height permitted in the adjoining more restricted district, the minimum depth or width of the side yard, rear yard or court for such structure shall be determined by increasing the minimum depth or width for the highest structure permitted in such more restricted district by one (1) foot for each two (2) feet by which the proposed structure exceeds the maximum height permitted in said more restricted district.

ZONING ADMINISTRATION

§151.830 ENFORCEMENT BY ZONING INSPECTOR

There is hereby established the position of Zoning Inspector and for purposes of this Ordinance, the Zoning and Subdivision Administrator is designated as the Zoning Inspector. It shall be the duty of the Zoning Inspector to enforce this Ordinance in accordance with the administrative procedures of the Town and of this Ordinance. All departments, officials and public employees of the Town vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall issue no permit or license for any use, building or purpose in conflict with the provisions of this Ordinance. Any permit or license, issued in conflict with the provisions of this Ordinance shall be null and void.

§151.831 APPLICATION REQUIREMENTS

- (A) Every application for an Improvement Location Permit shall be accompanied by plans, drawn to scale in black line showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part; the exact location, size and height of any building or structure to be erected or altered; the existing and intended use of each building or structure or part thereof, the number of families or housekeeping units the building is designed to accommodate; and, when no buildings are involved, the location of the present use and proposed use to be made of the lot; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance.

§151.832 IMPROVEMENT LOCATION PERMIT REQUIRED

- (A) Within the Town and the jurisdictional area, no structure or use of land may be altered, changed, placed, erected, or located on platted or unplatted lands, unless the structure, use, and the location conform with the Master Plan of the Town and the provisions of this Ordinance and an Improvement Location Permit for the structure or use has been issued. It shall be unlawful for an owner, lessee or tenant to begin any excavation or construction, reconstruction, extension, conversion or alteration of any building or structure until an Improvement Location Permit shall have been issued by the Zoning Inspector. Such permit shall show that such buildings or premises or a part thereof, and the proposed use thereof, are in conformity with the provisions of this Ordinance. It shall be the duty of the Zoning Inspector to issue such a permit, provided he is satisfied that the structure, building or premises, and the proposed use thereof, and the proposed methods of water supply and disposal of sanitary wastes, conform with all of the requirements of this Ordinance.

- (B) An Improvement Location Permit shall be required for any agricultural use structure with an estimated cost of construction of \$500.00 or more.
- (C) An Improvement Location Permit shall be required for any structures used as a residence or accessory use.
- (D) Only one permit will be issued for a residential structure on any parcel in single ownership.
- (E) All buildings and structures for any use shall be set back from the right-of-way the minimum distance as required in the zoning district where the structure is to be located.
- (F) No permit for excavation or construction shall be issued by the Zoning Inspector unless the plans, specifications and the intended use conform to the provisions of this Ordinance.
- (G) The Zoning Inspector shall act upon all such applications on which he is authorized to act by the provisions of this Ordinance within ten (10) days after they are filed in full compliance with all the applicable requirements. He shall either issue an Improvement Location Permit within said ten (10) days or shall notify the applicant in writing of his refusal of such permit and reasons therefore. Failure to notify the applicant in case of such refusal within said ten (10) days shall entitle the applicant to a permit, unless the applicant consents to an extension of time.

§151.833 CERTIFICATE OF OCCUPANCY

- (A) It shall be unlawful for any owner, lessee, or tenant to occupy, use or to permit the use of any structure, building, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, or of any land when no building or structure is involved, until a Certificate of Occupancy shall have been issued by the Zoning Inspector, after inspection. Such Certificates of Occupancy shall show and certify that such building, structure or premises, or part thereof, and the proposed use thereof are in conformity with the provisions of this Ordinance, and all other applicable codes or ordinance and all conditions and requirements, if any, stipulated by the Commission or other proper authority.
- (B) A Certificate of Occupancy for a building thereafter erected, constructed, reconstructed, converted or otherwise altered, shall be applied for coincident with the application for an Improvement Location Permit, and shall be issued within ten (10) days after the erection or alteration of such building shall have been completed in conformity with the provisions of this Ordinance.

- (C) A Certificate of Occupancy for a change in use of a building, or land shall be applied for before any such building or land shall be occupied or used, and a Certificate of Occupancy shall be issued within ten (10) days after application has been made provided such use is in conformity with all the provisions of this Ordinance.
- (D) A record of all Certificates of Occupancy shall be kept on file in the office of the Zoning Inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or building affected.

§151.834 FEES

Fees for all original Improvement Location Permits and Certificate of Occupancy Permits shall be in accordance with the fee schedule ordinance of the Town.

§151.835 ORDINANCE VIOLATION – PENALTIES

- (A) Any person, firm or corporation violating any provision of this Ordinance shall be guilty of an Ordinance violation and shall be subject to a fine of up to \$2,500.00 per violation. Each and every day during which a violation continues may be deemed a separate violation.
- (B) Enforcement proceedings pursuant to this section shall be brought in the name of the Town of Hagerstown by the Town attorney, or his designate.
- (C) A person, firm or corporation against whom a judgement is entered pursuant to this section is liable for all costs associated with prosecuting the violation(s).

§151.836 VIOLATIONS – INJUNCTIVE RELIEF

The Plan Director may institute a suit for injunction in the Wayne County Circuit Court or Superior Court to restrain a person, firm, corporation or a governmental unit from violating the provisions of this Ordinance. The Plan Director may also institute a suit for a mandatory injunction directing a person, firm, corporation or a governmental unit to remove a structure erected in violation of the provisions of the Ordinance and if the Zoning Inspector is successful in its suit the respondent shall bear the cost of the action.

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BOARD OF ZONING APPEALS

§151.900 ESTABLISHMENT.

A Board of Zoning Appeals is established in accordance with I.C. 36-7-4-900 *et seq.* and all amending acts.

§151.901 COMPOSITION AND APPOINTMENT.

(A) The Board of Zoning Appeals shall consist of five members as follows:

- (1) Three citizen members appointed by the President of the Town Council, of whom one must be a member of the Plan Commission and two must not be members of the Plan Commission;
- (2) One citizen member appointed by the Town Council, who must not be a member of the Plan Commission; and
- (3) One Citizen member appointed by the Plan Commission, who must be a member of the Plan commission other than the member appointed under division (A)(1) above; further, the member designated by the Plan Commission shall be one of the two citizen members who were appointed to the Plan Commission to represent the unincorporated area and must reside in the unincorporated area.

(B) None of the members of the Board of Zoning Appeals may hold other elective or appointive office in municipal, county, or state government, except as permitted by state law and as provided by division (A) above. A member must be a resident of the town or the jurisdictional unincorporated area pursuant to division (A) above.

(C) Membership terms.

- (1) When an initial term of office expires, each new appointment shall be for a term of four years.
- (2) The members of the Board of Zoning Appeals shall be initially appointed for the following terms of office beginning 1-1-1992:
 - (a) One for a term of one year;
 - (b) One for a term of two years;
 - (c) One for a term of three years; and

- (d) Two for a term of four years, which shall include the member appointed by the Plan Commission from the unincorporated area.
- (3) Each term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the member's appointment.
- (4) The appointing authority may remove a member from the Board of Zoning Appeals for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at his or her address. A member who is removed may, within 30 days after receiving notice of removal, appeal the removal to the circuit or superior court of Wayne County.
- (5) A member of the Board of Zoning Appeals serves until his or her successor is appointed and qualified. A member is eligible for reappointment.
- (D) If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the Board in any hearing or decision in which the regular member it has appointed has a disqualification under state or municipal law.
- (E) A member of the Board of Zoning Appeals may not participate in a hearing or decision of that Board concerning a zoning matter in which he or she has a direct or indirect financial interest. The Board shall enter into its records:
 - (1) The fact that a regular member has the disqualification; and
 - (2) The name of the alternative member, if any, who participates in the hearing or decision in place of the regular member.
- (F) A quorum consists of a majority of the entire membership of the Board of Zoning Appeals.
- (G) Action of the Board of Zoning Appeals is not official, unless it is authorized by a majority of the entire membership of the Board.

§151.902 ORGANIZATION.

At the first meeting of each year, the Board shall elect a Chairperson and a Vice-Chairperson from among its members, and it may appoint and fix the compensation of a Secretary and the employees which are necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensations fixed by the Board.

§151.903 RULES OF PROCEDURE.

- (A) The Board of Zoning Appeals shall adopt rules, which may not conflict with the zoning ordinance, concerning:
- (1) The filing of appeals;
 - (2) The application for variances, special exceptions, special uses, contingent uses, and conditional uses;
 - (3) The giving of notice;
 - (4) The conduct of hearings;
 - (5) The determination of whether a variance application is for a variance of use or for a variance from the developmental standards (such as height, bulk, or area); and
 - (6) The fixing of dates for hearings.
- (B) Rules adopted by the Board of Zoning Appeals shall be printed and be made available to all applicants and other interested persons.

§151.904 MEETINGS AND RECORDS.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be a public record.

§151.905 APPEALS FROM BUILDING COMMISSIONER.

Any decision of the Building Commissioner made in enforcement of this chapter may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by the decision.

§151.906 POWERS AND DUTIES OF THE BOARD.

- (A) The Board shall have the following powers and duties:
- (1) Hear and determine appeals from and review any order,

requirement, decision, or determination made by the Building Commissioner in the enforcement of this chapter;

- (2) Hear and decide on permits for conditional uses, development plans, or other uses upon which the Board is required to act under this chapter; and
 - (3) Authorize upon appeal in specific cases the variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, fully demonstrated on the basis of the facts presented, a literal enforcement of the provisions of this chapter will result in unnecessary hardship so that the spirit of this chapter shall be observed and substantial justice done.
- (B) In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the Building Commissioner from whom the appeal is taken.

§151.907 RESTRICTIONS ON BOARD ACTION.

- (A) The Board of Zoning Appeals shall approve or deny all special exceptions, special uses, contingent uses, and conditional uses from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in the zoning ordinance. The Board may impose reasonable conditions as a part of its approval.
- (B) The Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The Board may impose reasonable conditions or commitments as a part of its approval. A variance may be approved under this division (B) only upon a determination in writing that:
- (1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.
 - (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - (3) The need for the variance arises from some condition peculiar to the property involved.
 - (4) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

- (5) The approval does not interfere substantially with the comprehensive plan adopted by the town.

In the event a Confined Feeding Operation variance is sought, the following shall be required, in addition to any other reasonable conditions or commitments the Board shall require:

- (C) A Confined Feeding Operation shall meet any applicable requirements of the Federal, state or local government.
- (D) The minimum lot size on which a Confined Feeding Operation shall be permitted is 40 acres.
- (E) A minimum setback distance of 1320 feet from any other zone district for manure application or Confined Feeding Operation placement.
- (F) A minimum setback shall be 660 feet from any existing residence, business, public recreation area or golf course for Confined Feeding Operation placement or manure application.

Exception #1: the minimum setback distance may be reduced upon having a written agreement with the owner(s) of the existing residence, business, public recreation area or golf course.

Exception #2: the minimum setback distances shall be 300 feet from any existing residence, business, public recreation area or golf course for manure application by liquid injection.

- (G) Manure storage of at least 225 days is required.
- (H) A minimum setback distance shall be 660 feet from any sensitive area or public water supply surface intake structure for manure application.
- (I) Locations for staging solid manure or waste must be designated. A copy of the manure management plan as submitted to the Indiana Department of Environmental Management during the Indiana Confined Feeding Regulation Program permitting process is required to be submitted with the Special Exception application.
- (J) A minimum setback distance shall be 660 feet from any surface water for manure application by surface application or incorporation. The minimum setback distance shall be 300 feet from any surface water for manure application by injection. These

setback distances may be reduced with the installation of an approved and accepted vegetative management system or filter strip.

- (K) In the event that the Indiana Department of Environmental Management has determined through their permitting process that additional or greater setbacks are required to protect human health or the environment, the additional or greater setbacks shall apply.

§151.908 HEARING

- (A) Upon receipt of application, the Board of Zoning Appeals shall set the case for public hearing in accordance with provisions of this section.
- (B) In the event the Board of Zoning Appeals should decide to approve the request, in addition to the forgoing, the Board of Zoning Appeals may impose such other conditions, requirements or limitations concerning the nature, extent of the use and operation of such alcohol production as the Board of Zoning Appeals may deem necessary for the protection of adjacent properties and the public interest.
- (C) The Board of Zoning Appeals shall approve or deny variances from the developmental standards (such as height, bulk, or area) of the zoning ordinance. A variance may be approved under this division only upon a determination in writing that:
 - (1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.
 - (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the practical difficulties standard prescribed by this division.
- (D) The appointments of all members of the Board of Zoning Appeals shall terminate 12-31-1991, and the appointment of the reorganized Board shall be made in conformance with the foregoing sections of this subchapter. Any pending matters before the Board shall be continued over for consideration by the reorganized Board and all records of the Board now and hereafter shall continue to constitute the records of official action of the Board of Zoning Appeals.

for amendments submitted by the Plan Commission shall be accompanied by its own resolution pertaining to such proposed amendment.

- (B) Before submitting its recommendations on proposed amendments to the text of the Zoning Ordinance or changes in zone district boundaries or classification of property as shown on the zoning map to the Town Council, the Commission shall, within sixty (60) days hold a public hearing thereon, notice of which shall be given by one (1) publication in a newspaper of general circulation in the County at least ten (10) days before the date of such hearing. Such notice shall state the place and time at which the proposed amendment to the Ordinance, including text and maps, may be examined. At least ten (10) days before the date set for a public hearing, written notices shall be sent to the owners (as reflected on the transfer records of the Auditor of Wayne County) of all parcels of land immediately adjacent to the land described in the petition to be heard advising them of the public hearing.
- (C) Within ten (10) business days after the Plan Commission determines its recommendation (if any) on a proposal to amend the text of the Zoning Ordinance, the Commission shall certify to the Town Council a favorable recommendation, an unfavorable recommendation, or no recommendation. The Town Council shall vote on the proposal within ninety (90) days after the Plan Commission certifies the proposals.
 - (1) If the proposal receives a favorable recommendation from the Plan Commission, the Town Council may, within the ninety (90) day period adopt, reject, or amend the proposal. If the Town Council adopt the proposal as certified, it takes effect as any other Ordinance adopted by the Council. If the Council fail to act on the proposal within ninety (90) days after certification, it takes effect as if it had been adopted (as certified) ninety (90) days after certification. If the Council reject or amend the proposal it shall be returned to the Plan Commission for its consideration, with a written statement of the reasons for the rejection or amendment. The Plan Commission has forty-five (45) days in which to consider the rejection or amendment and report to the Town Council as follows:
 - (a) If the Commission approves the amendment or fails to act within the forty-five (45) day period, the Ordinance stands as passed by the Council as of the date of the filing of the Plan Commission's report of approval with the Council or the end of the forty-five (45) day period.
 - (b) If the Commission does not approve the rejection or amendment, the action of the Council on the original rejection or amendment stands only if confirmed by another vote of the Council within forty-five (45) days after the Plan Commission certifies its disapproval. If the Council fails to confirm their action, the Ordinance takes effect as being adopted as certified.

- (2) If the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission, the Council may, within the ninety (90) days period adopt, reject, or amend the proposal. If the Council adopt the proposal as certified, it takes effect as other Ordinances adopted by the Council. If the Council rejects the proposal or fails to act on it within ninety (90) days after certification, it is defeated. If the Council amend the proposal it shall be returned to the Plan Commission for its consideration, with a written statement of the reasons for the amendment. The Plan Commission has forty-five (45) days in which to consider the amendment and report to the Council as follows:
 - (a) If the Commission approves the amendment or fails to act within the forty-five (45) day period, the Ordinance stands as passed by the Council as of the date of the filing Plan Commission's report of approval with the Council or the end of the forty-five (45) day period.
 - (b) If the Plan Commission does not approve the amendment, the action of the Council on the original amendment stands only if confirmed by another vote of the Council within forty-five (45) days after the Plan Commission certifies its disapproval. If the Council fail to confirm its action, the Ordinance is defeated.
 - (3) The Council may take action under this section only by a vote of at least a majority of all elected members of the body.
- (D) Upon receiving or initiating a proposal for a change in zone district boundaries or classification of property as shown on the zoning map, the Plan Commission shall hold a public hearing within sixty (60) days on the proposal, and within ten (10) business days after the Commission determines its recommendation, (if any), the Commission shall certify the proposal to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation. The Council shall vote on the proposal within ninety (90) days after the Plan Commission certifies the proposal.
- (1) If the proposal receives a favorable recommendation from the Plan Commission, the Council may, within the ninety (90) day period adopts or reject the proposal.
 - (a) If the Council adopt the proposal as certified, it takes effect as other Ordinances adopted by the Council.
 - (b) If the Council reject the proposal, it is defeated.
 - (c) If the Council fail to act on the proposal within ninety (90) days after certification, the Ordinance takes effect as if it had been adopted as certified ninety (90) days after certification.

- (2) If the proposal receives an unfavorable recommendation or no recommendation from the Plan Commission the Council may, within the ninety (90) day period adopt or reject the proposal.
 - (a) If the Council adopt the proposal as certified, it takes effect as other Ordinances adopted by the Council.
 - (b) If the Council reject the proposal, it is defeated.
 - (c) If the Council fail to act on the proposal within ninety (90) days after certification, it is defeated.

§151.922 FEES

A fee will be charged according to Town's fee schedule ordinance for each application for a change in the zone district boundaries or classification of property as shown on the Zoning Map, except those initiated by the Commission or the Council, shall be accompanied by a check payable to the Town of Hagerstown or a cash payment sufficient in the amount designated in fee schedule ordinance.

§151.923 VALIDITY

If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

§151.924 ADOPTION

This Ordinance shall be in force and effect from and after its passage.

Passed by the Town Council, Town of Hagerstown, Wayne County, Indiana on the 21st day of November, 2011.